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REVIEW OF THE EFFICIENCY OF THE ADMINISTRATIVE AND FINANCIAL FUNCTIONING OF THE UNITED NATIONS

Proposed United Nations Code of Conduct

Report of the Secretary-General

I. INTRODUCTION

1. In recent years provisions dealing with the expected standards of conduct and performance of civil servants have been referred to as a "code of conduct". In August 1994, the Secretary-General announced that a United Nations "Code of Conduct" would be promulgated as part of the establishment of a transparent and effective system of accountability (see A/C.5/49/1, paras. 28-31). The present report contains the Secretary-General's proposals to the General Assembly to implement the Code of Conduct through revisions to article I of the Staff Regulations promulgated by the Assembly and the related changes that he intends to make to chapter I of the Staff Rules. The provisions contained in those Regulations and Rules will govern the conduct and performance of staff, ensure their accountability in that regard, as well as setting forth in concrete terms their rights and obligations.

2. Although referred to as a "Code of Conduct", the provisions constituting the Code are an integral part of article I of the Staff Regulations and chapter I of the Staff Rules and, after consequent amendments to the other series of Staff Rules applicable to staff (see para. 7 below), will apply to all staff members of the United Nations without exception.

II. CONSTITUTIONAL BACKGROUND

3. Article 101, paragraph 3, of the Charter of the United Nations establishes the universal standard for United Nations staff members as the "highest standards of efficiency, competence and integrity". These standards apply to all staff whose employment relationship derives from the authority vested by the

Charter in the Organization to employ individuals as staff members, including those of the separately funded and administered organs.

4. In 1954, at the request of the Administrative Committee on Coordination,[1] the then International Civil Service Advisory Board prepared a Report on Standards of Conduct in the International Civil Service 1954. That report does not have the force of law as it is a discussion of expected standards, rather than a set of rules that bind staff. Of course, some of the comments in the 1954 report are a little dated; however, it is still a very useful and accurate reflection of the rights and duties of an international civil servant and the rights and responsibilities that attach to that status. Indeed, in 1986, the Administrative Committee on Coordination issued a new preface to the report describing some of the important changes that had occurred since the report was first issued. The report, supplemented by the new preface by the Administrative Committee on Coordination in 1986, contains the ethical and philosophical underpinnings of the international civil service.

5. Against the background of the report of the International Civil Service Advisory Board, each organization of the United Nations system has over the years developed staff regulations and rules, which, in legislative form, reflect these principles adapted to the specific needs of the particular organization. In the United Nations itself, these rules are set out in article I of the Staff Regulations and chapter I of the Staff Rules.

III. CODE OF CONDUCT FOR UNITED NATIONS STAFF

A. Status of the Code of Conduct

6. The Code of Conduct is an integral part of the Staff Regulations and Rules. As noted above, the Staff Regulations are adopted by the General Assembly pursuant to Article 101, paragraph 1, of the Charter of the United Nations and the Staff Rules are promulgated by the Secretary-General pursuant to the authority granted to him by staff regulation 12.2. Staff regulation 12.3 requires the Secretary-General to report the full text of amendments to the Assembly and, pursuant to staff regulation 12.4, such Rules remain provisional until 1 January of the year following submission of the report to the Assembly.

7. The Code of Conduct will constitute article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules. The Staff Regulations apply to all staff, including the separately funded organs. The 100 series of the Staff Rules apply to all staff members except project personnel and staff members specifically recruited for conference and short-term services. The 200 series of the Staff Rules (Project personnel) and the 300 Series (Short-term conference appointments and appointments of limited duration) will have to be amended to bring them into line with the 100 series.[2] If the General Assembly approves the proposed amendments to the Staff Regulations as part of the Code of Conduct, the Secretary-General has the necessary authority to make these amendments to the Staff Rules without further action by the Assembly. In view of the need to emphasize its importance, the Code will also be issued to staff members as a separate booklet (see para. 12 below).

B. Features of the Code of Conduct

8. The Code of Conduct is in four parts:

(a) The first part of the Code reiterates provisions from the Charter and the Convention on the Privileges and Immunities of the United Nations, which form part of the conditions of service of staff;

(b) Draft staff regulation 1.1 and draft staff rule 101.1 deal with the status of United Nations staff;

(c) Draft staff regulation 1.2 and draft staff rule 101.2 deal with the core values expected from international civil servants and set out the basic rights and obligations of staff;

(d) Draft staff regulation 1.3 and draft staff rule 101.3 deal with expected performance and ensure that staff will be accountable for their performance and also provide that learning and development programmes will be made available to staff.

9. The major proposed changes to the existing Staff Regulations and Rules are the following:

(a) A provision on the duty of the Secretary-General to ensure that the rights and duties of staff members as well as those of staff representatives are respected (draft staff regulation 1.1 (c));

(b) A provision on the duty of the Secretary-General to strive for conditions of service necessary to attract staff of the highest standards of efficiency, competence and integrity (draft staff regulation 1.1 (d));

(c) Enunciation of the core values of the international civil service, including respect for the principles of the Charter, faith in fundamental human rights, the dignity and worth of the human person and equal rights for men and women; the proper exercise of power and the highest standards of integrity, including probity, impartiality, fairness, honesty and truthfulness (draft staff regulations 1.2 (a) and (b));

(d) A provision concerning the obligation of the Secretary-General to seek to ensure the safety and security of staff (draft staff regulation 1.2 (c));

(e) A provision concerning the freedom of opinion and belief enjoyed by staff and their obligation to ensure that this freedom does not affect the duty of impartiality and independence required of an international civil servant (draft staff regulation 1.2 (f));

(f) A provision on the rights and obligations of staff representatives (draft staff regulation 1.2 (g));

(g) Provisions to ensure that staff are not directly or indirectly associated with profit-making or other business concerns if it were possible for them or the concern to benefit from the staff member's position in the United

Nations and therefore give rise to a conflict of interest (draft staff regulation 1.2 (n) and draft staff rule 101.2 (n));

(h) A specific provision on financial disclosure to enable the Secretary-General to ascertain potential conflict of interest situations (draft staff regulation 1.2 (o) and draft staff rule 101.2 (o));

(i) Provisions on the accountability of staff, in particular, managerial accountability (draft staff regulations 1.2 (r) and 1.3 (a) and draft staff rules 101.3 (a) and (c));

(j) A specific provision concerning the obligation on staff members to respond fully to request for information from officials of the Organization who are authorized to investigate possible misuse of funds, waste or abuse (draft staff regulation 1.2 (s));

(k) A specific provision on prohibition of any form of discrimination (draft staff rule 101.2 (d));

(l) A provision on training and development of staff to ensure that they are equipped to meet the evolving needs of the Organization (draft staff rule 101.3 (b)).

10. It may be that, once the Code of Conduct is adopted, various subsidiary administrative issuances may be adopted, after consultation with staff in accordance with article VIII of the Staff Regulations and chapter VIII of the Staff Rules, dealing with the rights and obligations of staff of separately funded field-oriented organs (which also use the 100, 200 and 300 series of the Staff Rules) or particular occupational categories of staff whose activities may require special rules. It is not appropriate to deal with such specialized matters in a Code of Conduct applicable to all United Nations staff without exception.

C. Role of the Commentary

11. As it appears, the Code is accompanied by a Commentary. This Commentary is designed to explain individual provisions and place them in their overall context and to help staff members understand each provision by providing some explanation or discussion. Although the Commentary is not part of the Staff Regulations and Rules, it is an official guide published by the Secretary-General on the scope and application of the rules in the Code of Conduct. This guide has been elaborated in consultation with staff to ensure that any areas of concern were addressed and clarified. The provisions of the Code will be administered in the light of the Commentary and staff may thus safely rely on the comments in the Commentary, which will be updated from time to time in consultation with staff, in the light of experience in applying the Code.

12. So that staff may have a copy of the Code of Conduct conveniently at hand, the Code, the extracts from the Charter and the Convention on the Privileges and Immunities of the United Nations, the text of article I of the Staff Regulations and the text of chapter I of the Staff Rules will be issued to staff as an

official publication, in booklet form, together with the explanatory Commentary and the 1954 report of the International Civil Service Advisory Board.

D. The text of the Code of Conduct and the Commentary

13. Annex I sets out the text of the relevant provisions of the Charter and of the Convention on the Privileges and Immunities of the United Nations and the text of draft staff regulations 1.1, 1.2 and 1.3, together with the text of draft staff rules 101.1, 101.2 and 101.3. The former are promulgated by the General Assembly; the latter are presented to the Assembly for information; the Secretary-General intends to promulgate them in order to implement the Staff Regulations once adopted by the Assembly. Annex II contains the same provisions, together with the explanatory Commentary, and annex III contains the 1954 report of the International Civil Service Advisory Board. The text of annexes II and III will constitute the booklet referred to in paragraph 12 above.

E. Scope of the Code of Conduct

14. The requisite standards of conduct will be common to all staff members of the Organization, including staff members of all of its principal and subsidiary organs, even those with entirely separate administrative arrangements. To ensure that this result is achieved, it is recommended that the General Assembly add the following sentence to the scope and purposes provision of the Staff Regulations (new text is underlined):

> "The Staff Regulations embody the fundamental conditions of service and the basic rights, duties and obligations of the United Nations Secretariat. They represent the broad principles of personnel policy for the staffing and administration of the Secretariat. <u>For the purposes of these Regulations, the expression 'United Nations Secretariat', 'staff members' or 'staff' means all the staff members of the Secretariat, within the meaning of Article 97 of the Charter, whose employment and contractual relationship are defined by a Letter of Appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter of the United Nations</u>. The Secretary-General, as the chief administrative officer, shall provide and enforce such rules consistent with these principles as he considers necessary."

F. Recommended action

15. The General Assembly is asked to approve the present report of the Secretary-General and to adopt, effective 1 January 1998, the amendments to the scope and purposes provision to the Staff Regulations set out in paragraph 14 above and to adopt, effective 1 January 1998, article I of the Staff Regulations set out in annex I to this report.

16. The General Assembly is asked to take note of the text of chapter I of the Staff Rules, to be promulgated, effective 1 January 1998, by the Secretary-General.

17. The General Assembly is also asked to request the Secretary-General to prepare for its consideration a text of the Staff Regulations drafted in gender-neutral terms and to present that text to the Assembly at its fifty-third session.

Notes

[1] The Administrative Committee on Coordination is a body chaired by the Secretary-General and composed of the Executive Heads of the specialized agencies and the International Atomic Energy Agency (IAEA).

[2] The Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) will have to propose amendments to the UNRWA Staff Regulations to the General Assembly consistent with the present Code of Conduct because UNRWA area staff have separate Staff Regulations established by the Assembly to govern UNRWA area staff. The Secretary-General envisages that the Commissioner-General would do this immediately after the adoption of the Code by the Assembly.

ANNEX I

Code of Conduct for United Nations Staff

A. Fundamental provisions that must be observed

1. Charter of the United Nations

Chapter III. Organs

Article 7

1. There are established as principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

Chapter XV. The Secretariat

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Chapter XVI. Miscellaneous

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this

Article or may propose conventions to the Members of the United Nations for this purpose.

2. **Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly by its resolution 22 (I) of 13 February 1946**

Article V

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves ...

Section 21. The United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuse in connection with ... privileges, immunities and facilities ...

B. Draft Staff Regulations

Draft staff regulation 1.1

Status of staff

Regulation 1.1

(a) Staff members are international civil servants. Their responsibilities as staff members are not national but exclusively international.

(b) Staff members shall make the following written declaration witnessed by the Secretary-General or his authorized representative:

> "I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization.
>
> "I also solemnly declare and promise to respect the obligations incumbent upon me as set out in the Staff Regulations and Rules."

(c) The Secretary-General shall ensure that the rights and duties of staff members, as set out in the Charter and the Staff Regulations and Rules, as well as those of staff representatives, as set out in article VIII of the Staff Regulations and chapter VIII of the Staff Rules, are respected.

(d) The Secretary-General shall seek to ensure that the paramount consideration in the employment of staff and in the determination of the conditions of service shall be the necessity of securing staff of the highest standards of efficiency, competence and integrity.

(e) The Staff Regulations apply to all staff at all levels, including staff of the separately funded organs and staff holding appointments under the 100, 200 and 300 series of the Staff Rules.

(f) The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of the Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to the staff members who are covered by them to fail to observe laws and police regulations of the State in which they are located nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, the staff member shall immediately report the matter to the Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived.

Draft staff regulation 1.2

Basic rights and obligations of staff

Regulation 1.2

Core values

(a) Staff members shall uphold and respect the principles set out in the Charter, including faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. Consequently, staff members shall exhibit respect for all cultures; they shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them.

(b) Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.

General rights and obligations

(c) Staff members are subject to the authority of the Secretary-General and to assignment by him to any of the activities or offices of the United Nations. In exercising his authority the Secretary-General shall seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them.

(d) In the performance of their duties staff members shall neither seek nor accept instructions from any Government or from any other source external to the Organization.

(e) By accepting appointment, staff members pledge themselves to discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental obligation of all staff members by virtue of their status as international civil servants.

(f) While staff members' personal views and convictions, including their political and religious convictions, remain inviolable, staff members shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. They shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.

(g) Representatives of the staff, duly elected under procedures approved by the Secretary-General pursuant to staff regulation 8.1 (b), who act in

conformity with the provisions of the Staff Regulations and Rules, shall enjoy protection against any discriminatory treatment or prejudicial action based on their status or their activities as staff representatives.

(h) Staff members shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the private gain of any third party, including family, friends and those they favour. Nor shall staff members use their office for personal reasons to prejudice the positions of those they do not favour.

(i) Staff members may exercise the right to vote but shall ensure that their participation in any political activity is consistent with, and does not reflect adversely upon, the independence and impartiality required by their status as international civil servants.

(j) Staff members shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. These obligations do not cease upon separation from service.

Honours, gifts or remuneration

(k) No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government.

(l) If refusal of an unanticipated honour, decoration, favour or gift from a Government would cause embarrassment to the Organization, the staff member may receive it on behalf of the Organization and then report and entrust it to the Secretary-General, who will either retain it for the Organization or arrange for its disposal for the benefit of the Organization or for a charitable purpose.

(m) No staff member shall accept any honour, decoration, favour, gift or remuneration from any non-governmental source without first obtaining the approval of the Secretary-General.

Conflict of interest

(n) Staff members shall not be actively associated with the management of, or hold a financial interest in, any profit-making, business or other concern, if it were possible for the staff member or the profit-making, business or other concern to benefit from such association or financial interest by reason of his or her position with the United Nations.

(o) All staff members at the Assistant Secretary-General level and above shall be required to file financial disclosure statements on appointment, and at intervals as prescribed by the Secretary-General, in respect of themselves, their spouses and dependent children. The Secretary-General may require other staff to file such statements, either on occasion or periodically. The Secretary-General shall prescribe the format of and information to be provided

in such statements. The financial disclosure statements will remain confidential and will only be used, as prescribed by the Secretary-General, in making determinations pursuant to staff regulation 1.2 (n).

Outside employment and activities

(p) Staff members shall not engage in any outside occupation or employment, whether remunerated or not, without the approval of the Secretary-General.

(q) The Secretary-General may authorize staff members to engage in an outside occupation or employment, whether remunerated or not, if:

(i) The outside occupation or employment does not conflict with the staff member's official functions or the status of an international civil servant;

(ii) The outside occupation or employment is not against the interest of the United Nations; and

(iii) The outside occupation or employment is permitted by local law at the duty station or where the occupation or employment occurs.

Use of property and assets

(r) Staff members shall only use the property and assets of the Organization for official purposes and shall exercise reasonable care when utilizing such property and assets.

(s) Staff members must respond fully to requests for information from staff members and other officials of the Organization authorized to investigate possible misuse of funds, waste or abuse.

Draft staff regulation 1.3

Performance of staff

Regulation 1.3

(a) Staff members are accountable to the Secretary-General for the proper discharge of their functions. Staff members are required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions and their performance will be appraised periodically to ensure that the required standards of performance are met.

(b) The whole time of staff members shall be at the disposal of the Secretary-General for the performance of official functions; however, the Secretary-General shall establish a normal working week and shall establish official holidays for each duty station. Exceptions may be made by the Secretary-General as the needs of the service may require and staff members

shall be required to work beyond the normal tour of duty when requested to do so.

C. Draft Staff Rules

Draft staff rule 101.1

Status of staff

The declaration made by a staff member on appointment shall be placed in his or her official status file. A new declaration shall be made after a break in service that exceeds three months.

Draft staff rule 101.2

Basic rights and obligations of staff

General

(a) Disciplinary procedures set out in article X of the Staff Regulations and chapter X of the Staff Rules may be instituted against a staff member who fails to comply with his or her obligations and the standards of conduct set out in the Charter of the United Nations, the Staff Regulations and Rules the Financial Regulations and Rules, and all administrative issuances.

(b) Staff members shall follow the directions and instructions properly issued by the Secretary-General and their supervisors.

(c) Staff members must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.

Specific instances of prohibited conduct

(d) Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse at the workplace or in connection with work, is prohibited.

(e) Staff members shall not disrupt or otherwise interfere with any meeting or other official activity of the Organization, nor shall staff members threaten, intimidate or otherwise engage in any conduct intended, directly or indirectly, to interfere with the ability of other staff members to discharge their official duties.

(f) Staff members shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

(g) Staff members shall not intentionally alter, destroy, misplace or render useless any official document, record or file entrusted to them by virtue

of their functions, which document, record or file is intended to be kept as part of the records of the Organization.

(h) Staff members shall not seek to influence Member States, principal or subsidiary organs of the United Nations or expert groups in order to obtain a change from a position or decision taken by the Secretary-General, including decisions relating to the financing of Secretariat programmes or units, or in order to secure support for improving their personal situation or the personal situation of other staff members, or for blocking or reversing unfavourable decisions regarding their status or their colleagues' status. This provision shall not abrogate the right of the representatives of staff representative bodies to address and advocate their views to legislative bodies that have authorized them to submit their views.

(i) Staff members shall neither offer nor promise any favour, gift, remuneration or any other personal benefit to another staff member or to any third party with a view to causing him or her to perform, fail to perform or delay the performance of any official act. Similarly, staff members shall neither seek nor accept any favour, gift, remuneration or any other personal benefit from another staff member or from any third party in exchange for performing, failing to perform or delaying the performance of any official act.

Honours, gifts or remuneration

(j) Acceptance by staff members of any honour, decoration, favour, gift or remuneration from non-governmental sources requires the prior approval of the Secretary-General. Approval shall be granted only in exceptional cases and where such acceptance is not incompatible with the interests of the Organization and with the staff member's status as an international civil servant. However, staff members may occasionally accept, without prior approval, minor gifts of essentially nominal value having regard to the duty station concerned, provided that all such gifts are promptly disclosed to the head of the office, who may direct that the gift be entrusted to the Organization or returned to the donor.

(k) The Secretary-General may authorize staff members to accept from a non-governmental source or a university academic awards, distinctions and tokens of a commemorative or honorary character, such as scrolls, certificates, trophies or other items of essentially nominal monetary value.

(l) Staff members, as part of their official functions, will be expected from time to time to attend governmental or other functions such as meals and diplomatic receptions. Such attendance is not considered receipt of a favour, gift or remuneration within the meaning of the Staff Regulations and Rules.

(m) The Secretary-General may, in exceptional cases, provided that this is in the interest of the United Nations and not incompatible with the staff member's status, authorize a staff member to receive from a non-governmental source an honour, decoration, favour, gift or remuneration other than those referred to in staff rules 101.2 (j) to (l) above.

Conflict of interest

(n) A staff member who has occasion to deal in his or her official capacity with any matter involving a profit-making, business or other concern in which he or she holds a financial interest, directly or indirectly, shall disclose the measure of that interest to the Secretary-General and, except as otherwise authorized by the Secretary-General, either dispose of that financial interest or formally excuse himself or herself from participating with regard to any involvement in that matter which gives rise to the conflict of interest situation.

(o) The Secretary-General shall establish procedures for the filing and utilization of financial disclosure statements.

Outside activities

(p) Staff members shall not, except in the normal course of official duties or with the prior approval of the Secretary-General, engage in any of the following acts, if such act relates to the purpose, activities or interests of the United Nations:

(i) Issue statements to the press, radio or other agencies of public information;

(ii) Accept speaking engagements;

(iii) Take part in film, theatre, radio or television productions;

(iv) Submit articles, books or other material for publication.

(q) Membership in a political party is permitted, provided that such membership does not entail action, or an obligation to take action, by the staff member contrary to staff regulation 1.2 (i). The payment of normal financial contributions to a political party shall not be construed as an activity inconsistent with the principles set out in staff regulation 1.2 (i).

(r) The Secretary-General shall establish procedures whereby staff may seek in confidence clarification as to whether proposed outside activities would conflict with their status as international civil servants.

Travel and per diem for outside activities

(s) Staff members who are authorized by the Secretary-General to participate in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source, may receive from the Government, intergovernmental organization, non-governmental organization or private source, accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases the travel subsistence allowance that may otherwise be payable by the United Nations shall be reduced as envisaged by staff rule 107.15 (a).

Draft staff rule 101.3

Performance of staff

(a) Staff members shall be evaluated for their efficiency, competence and integrity through performance appraisal mechanisms that shall assess the staff member's compliance with the standards set out in the Staff Regulations and Rules for purposes of accountability.

(b) The Secretary-General shall seek to ensure that appropriate learning and development programmes are available for the benefit of staff.

(c) Performance reports shall be prepared regularly in accordance with procedures promulgated by the Secretary-General.

ANNEX II

Code of Conduct for United Nations Staff

(with Commentary and Table of Concordances)

A. Commentary on the Code of Conduct for United Nations Staff

Introductory note

1. Article 101, paragraph 3, of the Charter of the United Nations establishes the universal standard for all staff members* employed by the United Nations as the "highest standards of efficiency, competence and integrity". It is thus axiomatic that these standards apply to all staff whose employment relationship derives from the authority vested by the Charter in the Organization to employ individuals as staff members. These basic standards are common to all staff, including those of the separately funded and administered organs. In recent years these type of provisions dealing with the expected standards of conduct and performance of staff have become referred to by the Administration as a "code of conduct" and, in August 1994, the Secretary-General announced that a United Nations code of conduct would be promulgated as part of the establishment of a transparent and effective system of accountability (see A/C.5/49/1, paras. 28-31). The present Code of Conduct sets out in concrete terms the basic rights and obligations of staff members and will constitute article I of the Staff Regulations and chapter I of the Staff Rules, thus replacing the existing text.

Status of the Code of Conduct

2. Although referred to as a "Code of Conduct", the Code is an integral part of the Staff Regulations and Rules, with regulations being adopted by the General Assembly pursuant to Article 101, paragraph 1, of the Charter of the United Nations and with rules being promulgated by the Secretary-General pursuant to the authority granted to him by the scope and purpose provision of the Staff Regulations.

3. This Code of Conduct will constitute article I of the Staff Regulations and chapter I of the Staff Rules. However, in view of the need to emphasize its importance, the Code will also be issued to staff members as a separate booklet (see also para. 7 below).

4. As the Staff Regulations apply to all staff, including the separately funded organs, it follows that the 200 series (Project personnel) and the 300 series (Short-term appointments and appointments of limited duration) of the Staff Rules will have to have consequent amendments to bring them into line with the 100 series. If the Assembly approves this Code of Conduct, the Secretary-General has the necessary authority to make those amendments.

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* The present text of the Staff Regulations sometimes refers to "staff members" (e.g. staff regulation 1.2) but, at other times, refers to "members of the Secretariat" (e.g. staff regulation 1.10).

5. The Code of Conduct is in most parts very general as it must apply to all staff. It is envisaged that, once the Code of Conduct is adopted, various subsidiary legal texts will be adopted, after consultation with staff, dealing with the rights and obligations of staff of separately funded organs or particular groups of staff whose activities may require special rules (such as finance officers, procurement officers, etc.). It is not appropriate to deal with such specialized matters in a Code of Conduct applicable to all United Nations staff without exception.

Role of the Commentary

6. The Commentary is designed to explain individual provisions and to help the staff member understand each provision by placing it into context. The Commentary is not part of the Staff Regulations and Rules and so is not a legal "norm" or imperative, nor does it have the legal force of a rule. It is, however, an official guide published by the Secretary-General, for the use of management and staff, on the scope and application of the rules in the Code of Conduct. Staff may thus safely rely on the comments in the Commentary to guide their actions since management will use the Commentary in interpreting and applying the provisions of the Code. The Commentary will be updated from time to time in consultation with representatives of the staff in the Staff-Management Coordination Committee established under chapter VIII of the Staff Rules in the light of experience in applying the Code to specific instances.

7. So that staff may have conveniently at hand a guide to their rights and duties, the extracts from the Charter and the Convention on the Privileges and Immunities of the United Nations, the text of article I of the Staff Regulations and the text of chapter I of the Staff Rules, which together constitute the Code of Conduct, will be issued to staff as an official publication, in booklet form, together with the explanatory Commentary.

Status of the 1954 report of the International Civil Service Advisory Board

8. In 1954, the International Civil Service Advisory Board issued its Report on Standards of Conduct in the International Civil Service 1954 to assist staff members and executive heads of the organizations to understand better the obligations placed on staff conduct by the Charter and the Staff Regulations and Rules. The report has been continually cited by successive Secretaries-General and by the United Nations Administrative Tribunal when assessing conduct of staff and will be reproduced with the Code of Conduct as an illustrative guide to expected standards of conduct. The report does not have the force of law as it is a discussion of expected standards, rather than a set of rules that bind staff. In a few isolated occasions some of the comments in the 1954 report are a little dated; however, it is still by far the best discussion of the duties of an international civil servant and the rights and responsibilities that attach to that status. Indeed, in 1986, the Administrative Committee on Coordination issued a new introduction to the report describing some of the important changes that had occurred since it was first issued. However, it must be emphasized that the report is not a set of rules but a discussion that helps staff understand their role as international civil servants. References to relevant paragraphs in the report are made in the Commentary.

* * *

CODE OF CONDUCT FOR UNITED NATIONS STAFF

A. Fundamental provisions that must be observed

1. Charter of the United Nations

Chapter III. Organs

Article 7

1. There are established as principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

Chapter XV. The Secretariat

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Chapter XVI. Miscellaneous

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

Commentary

No specific comments are made on the provisions of the Charter reproduced in the Code as authoritative commentaries on these provisions exist. However,

the provisions are repeated in the Commentary for the information of staff as they are the constitutional basis for the Code.

2. Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly by its resolution 22 (I) of 13 February 1946

Article V

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves ...

Section 21. The United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuse in connection with ... privileges, immunities and facilities ...

Commentary

Staff members

1. The Charter requires that staff members be "appointed" by the Secretary-General (or by those to whom this power has been delegated, either by the Secretary-General alone or by the Secretary-General at the direction of the General Assembly). The hallmark of a staff relationship is "appointment", and this is done through a Letter of Appointment pursuant to staff regulation 4.1 (the Assembly has issued separate regulations for area staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East but this basic principle still applies). Thus the Code of Conduct will apply to all staff members of the Secretariat within the meaning of Article 97 of the Charter whose employment relationship and contractual link with the Organization are through a letter of appointment issued pursuant to regulations promulgated by the General Assembly.

2. There is no question of separate standards of conduct. The requisite standard of conduct will be common to all staff members of the Organization, including all staff members of all of its principal and subsidiary organs, even those with entirely separate administrations. To ensure that this result is achieved, it is envisaged that the General Assembly will add the following sentence to the scope and purposes provision of the Staff Regulations:

> "For the purposes of these regulations, the expression 'United Nations Secretariat', 'staff members' or 'staff' means all the staff members of the Secretariat, within the meaning of Article 97 of the Charter, whose employment and contractual relationship are defined by a letter of appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter of the United Nations."

3. Article 105 of the Charter empowers the General Assembly to make provisions for the privileges and immunities of the "officials" of the Organization. The Assembly did so by adopting the Convention on the Privileges and Immunities of the United Nations on 13 February 1946 (hereafter the "General Convention"). Article V of the General Convention provides for privileges and immunities for officials and article VII provides for the issue of United Nations laissez-passer to officials. By its resolution 76 (I) of 7 December 1946, the Assembly approved that the provisions in Articles V and VII of the General Convention apply to all staff members of the United Nations with the exception of those "recruited locally and assigned to hourly rates". Thus all staff members covered by the Code of Conduct for United Nations Staff are officials.

The Secretary-General and officers of United Nations organs and experts on missions

4. The Secretary-General is the chief administrative officer of the Organization by virtue of Article 97 of the Charter. Although the Secretary-General is not a staff member, he is an official of the Organization and a member of the Secretariat.

5. In addition, for the purposes of the General Convention, the Secretary-General has specified and submitted to the General Assembly a number of persons who occupy certain positions within the Organization to be accorded the privileges and immunities under articles V and VII of the General Convention, even though they are not staff members. These persons are presiding and other officers of United Nations organs performing on a substantially full time basis for the Organization (for example, the Chairman of the Advisory Committee on Administrative and Budgetary Questions and the Chairman and Deputy Chairman of the International Civil Service Commission) and for the Security Council (for example, the Chairman of the Special Commission created pursuant to Security Council resolution 687 (1991)). These persons have also been referred to in certain General Assembly resolutions as "officials other than Secretariat officials".

6. As "officials other than Secretariat officials" perform duties for the Organization, the General Assembly might consider that they should also be subject to a code of conduct and a draft code of conduct has therefore been elaborated for them. That code could also apply to experts performing missions for the Organization ("experts on missions") who enjoy the privileges and immunities under article VI of the General Convention in carrying out their missions. The Secretary-General would also be covered by that code as he is accountable to the General Assembly and the Security Council for his activities and conduct.

Draft Staff Regulations and Rules

Draft staff regulation 1.1

Status of staff

Regulation 1.1 (a)

Staff members are international civil servants. Their responsibilities as staff members are not national but exclusively international.

Commentary

1. It should be noted that the Commentary uses the word "draft" to refer to the regulations and rules in the Code of Conduct to distinguish them from the Staff Regulations and Rules currently in force.

2. Draft staff regulation 1.1 (a) essentially reproduces the text of the first two sentences of staff regulation 1.1 (see paras. 4-9 and 21 of the Report on Standards of Conduct in the International Civil Service 1954 of the International Civil Service Advisory Board (see annex III)).

* * *

Regulation 1.1 (b)

Staff members shall make the following written declaration witnessed by the Secretary-General or his authorized representative:

"I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization.

"I also solemnly declare and promise to respect the obligations incumbent upon me as set out in the Staff Regulations and Rules."

Commentary

1. Draft staff regulation 1.1 (b) contains the declaration of office of staff and its opening words incorporate the text of staff regulation 1.9 in so far as it relates to staff members (see the ICSAB report, paras. 4-9). The first part of draft staff regulation 1.1 (b) in substance reproduces the text of the declaration set out in staff regulation 1.9, except that the draft provision codifies existing practice under which staff members subscribe to a written declaration but do not make a sworn statement, since the concept of a sworn statement depends upon the operation of local law.

2. The second paragraph of the declaration is new and refers specifically to the Staff Regulations and Rules.

3. Procedures will be put in place to ensure that all current staff receive a copy of the Code. As the Code will be part of the terms of appointment of staff it is not necessary that existing staff make a new declaration of office specifically referring to the Staff Regulations and Rules.

* * *

Regulation 1.1 (c)

The Secretary-General shall ensure that the rights and duties of staff members, as set out in the Charter and the Staff Regulations and Rules, as well as those of staff representatives, as set out in article VIII of the Staff Regulations and chapter VIII of the Staff Rules, are respected.

Commentary

1. Draft staff regulation 1.1 (c) is new.

2. The draft regulation codifies an implicit duty that falls on the Secretary-General, that is, to ensure that the rights and duties of staff members are respected. The provision also refers to a particular example of this obligation that is of importance to the staff associations, that is, to ensure that the rights and duties of staff representatives are respected (see also draft staff regulation 1.2 (g)).

* * *

Regulation 1.1 (d)

The Secretary-General shall seek to ensure that the paramount consideration in the employment of staff and in the determination of the conditions of service shall be the necessity of securing staff of the highest standards of efficiency, competence and integrity.

Commentary

1. Draft staff regulation 1.1 (d) places on the Secretary-General an affirmative duty to seek to ensure that the criteria set out in Article 101, paragraph 3, of the Charter for the determination of the conditions of service of the staff are implemented. This provision is not intended to affect the role of legislative bodies involved in the process of establishing conditions of service. It does, however, seek to formulate the responsibility of the Secretary-General to advocate, in the appropriate forums, the adoption of what he considers to be the appropriate conditions of service to secure the recruitment and retention of staff possessing the highest standards of efficiency, competence and integrity.

2. The salaries of staff in the Professional category and above are determined by reference to the best paying national civil service under what is known as

the Noblemaire principle. The salaries of staff in the General Service and related categories are established by the Secretary-General on the basis of the best prevailing conditions of employment in the locality where the United Nations office concerned is located under what is commonly referred to as the Flemming principle. The determination of the conditions of service of staff in the Field Service category follows the same pattern as the Professional category.

* * *

Regulation 1.1 (e)

The Staff Regulations apply to all staff at all levels, including staff of the separately funded organs and staff holding appointments under the 100, 200 and 300 series of the Staff Rules.

Commentary

1. Draft regulation 1.1 (e) makes clear that the Staff Regulations apply to all staff members of the Secretariat within the meaning of Article 97 of the Charter whose contractual link with the Organization is through a letter of appointment issued pursuant to regulations promulgated by the General Assembly. The Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) will have to propose amendments to the UNRWA Staff Regulations to the Assembly consistent with this Code of Conduct since UNRWA area staff have separate Staff Regulations established by the General Assembly to govern UNRWA area staff. The Secretary-General envisages that the Commissioner-General would do this immediately after adoption of the Code by the Assembly.

2. While the Staff Regulations apply to all staff, applicable Staff Rules differ depending on the type of appointment held by the staff member. The 100 series of the Staff Rules applies to all staff except those engaged on technical assistance projects (200 series) and staff engaged for short-term service or for appointments of limited duration (300 series). Similar amendments to the 200 series and 300 series rules will be promulgated as appear in the 100 series, with appropriate modifications required to address the different circumstances of such staff.

* * *

Regulation 1.1 (f)

The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of the Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to the staff members who are covered by them to fail to observe laws and police regulations of the State in which they are located nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, the staff member shall immediately report the matter to the

Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived.

Commentary

1. Draft staff regulation 1.1 (f) essentially reproduces the substance of staff regulation 1.8 (see the ICSAB report, paras. 32, 49, 54 and 55). It is placed at the end of draft staff regulation 1.1 as it defines the scope and extent of the privileges and immunities of the United Nations that are enjoyed by staff in the interest of the Organization.

2. Draft staff rule 101.2 (c) deals with the obligations on staff to honour their private legal obligations.

* * *

Draft staff rule 101.1

Status of staff

The declaration made by a staff member on appointment shall be placed in his or her official status file. A new declaration shall be made after a break in service that exceeds three months.

Commentary

1. Draft staff rule 101.1 codifies the existing practice of placing written declarations in the official status file. The second sentence seeks to ensure that a new declaration is made after a break in service that exceeds three months unless the staff member is reinstated and the staff member's services are considered continuous under staff rule 104.3 (b).

3. Upon promulgation, the new Regulations and Rules comprising the Code of Conduct will bind all staff already in service and the declaration made by such staff on their entry on duty will remain in effect. Thus, it is not necessary that they sign the new declaration referred to the Code.

* * *

Draft staff regulation 1.2

Basic rights and obligations of staff

Core values

Regulation 1.2 (a)

Staff members shall uphold and respect the principles set out in the Charter, including faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. Consequently, staff members shall exhibit respect for all cultures; they

shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them.

Commentary

This provision describes the basic values expected of international civil servants because of their status. At the heart of those values are the principles set out in the preamble to the Charter of the United Nations. The first sentence is a quotation from those opening words and the second sentence is the obligation on staff flowing from a commitment to those values.

* * *

Regulation 1.2 (b)

Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.

Commentary

1. This provision describes more basic values expected of international civil servants because of their status. It is derived from Article 101, paragraph 3, of the Charter and affirmatively places on staff the obligation to uphold the highest standards of efficiency, competence and integrity after appointment to the Secretariat.

2. At the heart of those values is integrity, allied with a dedication to the values and principle set out in the Charter of the United Nations. As discussed in paragraph 4 of the report of the International Civil Service Advisory Board, the concept of integrity includes "honesty, truthfulness, fidelity, probity and freedom from corrupting influences".

3. Various other provisions deal with particular manifestations of this set of basic values in different circumstances, for example, draft staff regulations 1.2 (d) to (j), (n) and (o).

* * *

General rights and obligations

Regulation 1.2 (c)

Staff members are subject to the authority of the Secretary-General and to assignment by him to any of the activities or offices of the United Nations. In exercising his authority the Secretary-General shall seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them.

Commentary

1. The opening sentence of draft staff regulation 1.2 (c) reproduces the first sentence of staff regulation 1.2.

2. The obligations of Member States for the security of staff are set out in Article 105 of the Charter of the United Nations, which provides that the Organization and its officials shall enjoy such privileges and immunities as are necessary for the exercise of their functions.

3. The Secretary-General as chief administrative officer has an inherent responsibility to seek to ensure the safety of staff. This regulation recognizes that responsibility as a basic right of staff.

4. In exercising his authority to assign staff to any of the activities of the Organization, the Secretary-General shall seek to ensure that, while assigned to hardship areas, staff are afforded reasonable conditions of life and work having regard to the existing conditions.

5. Furthermore, since staff are subject to assignment, measures should be taken to ensure that staff are properly advised, before departure, of conditions prevailing at the duty station to which they are assigned.

* * *

Regulation 1.2 (d)

In the performance of their duties staff members shall neither seek nor accept instructions from any Government or from any other source external to the Organization.

Commentary

1. Draft staff regulation 1.2 (d) reproduces the essence of staff regulation 1.3 and flows from the first sentence of Article 100, paragraph 1, of the Charter (see the ICSAB report, paras. 7, 18 and 31).

2. The draft regulation makes clear that directions or instructions to staff come from the Secretary-General, who must fulfil the legislative mandates of the Organization. This is true in all areas, including, for example, decisions relating to the appointment and promotion of staff, which are for the Secretary-General to make as chief administrative officer of the Organization.

* * *

Regulation 1.2 (e)

By accepting appointment, staff members pledge themselves to discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental

obligation of all staff members by virtue of their status as international civil servants.

Commentary

1. The first sentence of draft staff regulation 1.2 (e) sets out an idea that is at present in staff regulation 1.1 and staff regulation 1.9, which contains the oath or declaration of office, that is, that staff must regulate their conduct with only the interests of the Organization in view (see the ICSAB report, para. 4). The second sentence of draft staff regulation 1.2 (e) is new and focuses on the concept of loyalty to the aims, principles and purposes of the Organization as set out in the Charter (which is alluded to in the declaration contained in draft staff regulation 1.1 (b)) (ibid., paras. 5, 6 and 21). It was considered important to highlight those obligations which arise from the very status of a staff member and which, at present, are set out only in the declaration subscribed to by staff upon their entry on duty.

2. The Secretary-General, and those to whom he has delegated decision-making authority, has the responsibility to make decisions as to whether the staff have complied with the provisions of the Staff Regulations and Rules. Since no set of rules, no matter how long or complex, can cover all situations, it is clear that there must be discretion in the application of the rules. This is common to all systems of administrative law. However, the discretionary authority of the Secretary-General is not unlimited and it has consistently been held by the Administrative Tribunal that decisions cannot be tainted by prejudice, improper motive or mistake of fact. The Administrative Tribunal adjudicates claims by staff that decisions have not been properly taken.

* * *

Regulation 1.2 (f)

While staff members' personal views and convictions, including their political and religious convictions, remain inviolable, staff members shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. They shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.

Commentary

1. Draft staff regulation 1.2 (f) generally reproduces the essence of staff regulation 1.4. The core idea of conduct befitting an international civil servant was considered by the International Civil Service Advisory Board in 1954. The Advisory Board remarked that:

"High standards of conduct are best attained by a universal understanding among staff members of the relation between their conduct and the success

of the international organizations, and by the development of a strong tradition among men and women who are jealous of the reputation of the organizations that they serve and are anxious to safeguard it."

(See the ICSAB report, para. 2; see also para. 4 on the integrity expected of international civil servants; paras. 5, 6 and 21 on loyalty; paras. 7 and 18 on independence; and paras. 8 and 48 on impartiality).

2. The first sentence of draft regulation 1.2 (f) is a revision of the second sentence in staff regulation 1.4, which provides that:

"While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times comport themselves with the reserve and tact incumbent upon them by reason of their international status."

The revision recasts this obligation in a more positive tone. The International Civil Service Advisory Board noted in its report (para. 8) that:

"The staff member's personal views and convictions remain inviolable, but he has not the freedom of a private person to 'take sides', to enter a dispute as a partisan, or publicly to express his convictions on matters of a controversial nature, either singly or as a member of a group."

3. As noted in the Commentary to draft regulation 1.2 (e), it is for the Secretary-General to decide whether a staff member has met the standards set out in this provision. The Administrative Tribunal has consistently maintained that, while the Secretary-General has the responsibility and discretion to assess a staff member's conduct, such discretion must be exercised reasonably, without improper motives and in accordance with the requirements of due process.

* * *

Regulation 1.2 (g)

Representatives of the staff, duly elected under procedures approved by the Secretary-General pursuant to staff regulation 8.1 (b), who act in conformity with the provisions of the Staff Regulations and Rules, shall enjoy protection against any discriminatory treatment or prejudicial action based on their status or their activities as staff representatives.

Commentary

1. This provision recognizes that the duties of staff representatives are official functions (see article VIII of the Staff Regulations and chapter VIII of the Staff Rules). It follows that staff representatives, who are duly elected under the procedures approved by the Secretary-General and who comply with the Staff Regulations and Rules, should not be the object of sanctions or disciplinary measures in respect of staff representational activities, nor should they suffer any prejudice in their career development as a result of such activities, either during or after the expiration of their term of office. In the case of staff representatives holding fixed-term appointments, their

services should not be terminated as a result of such activities either during or after their term of office, nor should they be subject to arbitrary transfer of assignments as a result of their staff representational activities.

2. The facilities afforded to staff representatives are established in administrative issuances promulgated pursuant to chapter VIII of the Staff Rules.

* * *

Regulation 1.2 (h)

Staff members shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the private gain of any third party, including family, friends and those they favour. Nor shall staff members use their office for personal reasons to prejudice the positions of those they do not favour.

Commentary

1. Draft staff regulation 1.2 (h) builds on ideas in staff regulation 1.5 and codifies principles set out in the report of the International Civil Service Advisory Board (see the ICSAB report, paras. 17, 28 and 42). The use of one's office for personal gain is clearly unacceptable. This includes not only conducting a business from a United Nations office, but also such things as using United Nations facilities for a business, using the United Nations name, logo or address for a business or approving a contract for a family business without disclosure. It also reflects the principle set out in staff regulation 1.5 that staff members shall not use information that has not been made public for the private advantage of the staff member or any third party.

2. The draft regulation, for the sake of clarity, makes specific reference to the prohibition on a staff member favouring a third party, including family or friends, from profiting from a staff member's position or the exercise of his or her functions. The term "friends" is broad and seeks to encompass not only friends as normally understood but also relationships that are not recognized by the Staff Regulations and Rules as creating a dependency.

3. The draft regulation also prohibits the use of office or knowledge gained from that office for personal reasons to prejudice or harm the careers of individual staff members or harm third parties.

* * *

Regulation 1.2 (i)

Staff members may exercise the right to vote but shall ensure that their participation in any political activity is consistent with, and does not reflect adversely upon, the independence and impartiality required by their status as international civil servants.

Commentary

1. Draft staff regulation 1.2 (i) reproduces the essence of the text of staff regulation 1.7 (see the ICSAB report, paras. 20, 33-37 and 48), but the provision is cast in a more positive form to ensure that the emphasis is on the need to ensure that political activities do not have an impact on the independence and impartiality of staff rather than suggesting that there is some problem with staff having political views.

2. The notion of consistency with the status of an international civil servant is to be determined by the Secretary-General in view of the necessity of staff being, and appearing to be, independent and impartial. Thus, it is clear that staff members cannot be candidates for political office. In case of doubt, inquiries could be made by staff pursuant to draft rule 101.2 (r).

3. Staff members, of course, have the right to form staff representative bodies in accordance with staff regulations 8.1 and 8.2 in order to ensure, in the words of staff regulation 8.1, "the effective participation of staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other personnel policies".

* * *

Regulation 1.2 (j)

Staff members shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. These obligations do not cease upon separation from service.

Commentary

1. Draft staff regulation 1.2 (j) generally reproduces the text of staff regulation 1.5. The text reflects the fact that official information cannot be used for private purposes, except with authorization. This flows from the idea that staff members are obligated to regulate their conduct with the interests of the Organization only in view (see the ICSAB report, para. 4). It also flows from the requirements of draft staff regulation 1.2 (g). It follows that permission must be obtained for disclosure to third parties of information that has not been made public, unless such disclosure is in the normal course of the staff member's duties, that is, that the staff member is either generally authorized to release information (for example, a press officer) or by a staff member specifically authorized to so do. (See draft staff regulation 1.2 (s) for the duty of staff to cooperate with United Nations investigations.)

2. The last sentence of the regulation provides that the obligations contained in the provision do not cease upon service. It may be difficult to enforce such a provision but, at the very least, if a former staff member ignores the

regulation, a note could be placed in his or her official status file to prevent re-employment.

* * *

Honours, gifts or remuneration

Regulation 1.2 (k)

No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government.

Commentary

1. Draft staff regulations 1.2 (k), (l) and (m) provide the basic provisions regulating the issue of acceptance by staff members of any honour, decoration, favour, gift or remuneration from outside sources (see the ICSAB report, para. 43).

2. Staff regulation 1.6 dealt with this issue in one provision, which prohibited the acceptance of any benefits from a Government, and severely restricted the acceptance of benefits from non-governmental sources. The Secretary-General believes that it would be appropriate for the General Assembly to stress the importance of the appearance of strict independence and impartiality of staff and thus to reaffirm the absolute prohibition on acceptance of benefits from Governments. The Secretary-General also believes that the prior exception in staff regulation 1.6 and staff rule 109.1 (b), which enabled a staff member to accept honours for war service prior to appointment with the United Nations, should be abolished.

3. Draft staff regulation 1.2 (k) contains the basic rule that staff may not accept any honour, decoration, gift or remuneration from any Government (ibid., para. 43).[b] This rule applies whatever the reason for the award, even if the award is unrelated to the staff member's service with the Organization, since it is imperative that an international civil servant be perceived as independent from any national Government.

* * *

Regulation 1.2 (l)

If refusal of an unanticipated honour, decoration, favour or gift from a Government would cause embarrassment to the Organization, the staff member may receive it on behalf of the Organization and then report and entrust it to the Secretary-General, who will either retain it for the

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[b] Staff regulation 3.4 (c) envisages that staff members may accept child benefits from their Governments but that, in such a case, United Nations dependency benefits will be reduced. The United Nations has also accepted housing from Governments and when staff are assigned to such housing, rental deductions from emoluments are applicable (see ST/AI/275/Rev.2).

Organization or arrange for its disposal for the benefit of the Organization or for a charitable purpose.

Commentary

1. Draft staff regulation 1.2 (l) is new and seeks to regulate a recurrent problem, namely, when a staff member is given an unanticipated honour, decoration favour or gift, perhaps in public, by a Minister or even a Head of State. In such cases a public refusal could cause a needlessly unpleasant incident. In such cases, the draft regulation states that the unanticipated honour, decoration, favour or gift may be received by the staff member, but on behalf of the United Nations. The honour, decoration, favour or gift must then be given to the Secretary-General for retention or disposal by the Organization. Remuneration from a Government must always be refused and such refusal, as staff are paid by the Organization, could hardly cause embarrassment.

2. The Secretary-General will write to all Member States, once the Code of Conduct is adopted, to inform them of the Organization's policy on acceptance of honours, decorations, favours, gifts or remuneration so that incidents of this nature can be avoided to the largest extent possible.

* * *

Regulation 1.2 (m)

No staff member shall accept any honour, decoration, favour, gift or remuneration from any non-governmental source without first obtaining the approval of the Secretary-General.

Commentary

1. Draft staff regulation 1.2 (m) requires that a staff member not accept any honour, decoration, favour, gift or remuneration from a non-governmental source without first obtaining the approval of the Secretary-General (see also the ICSAB report, para. 43). This provision is based on staff regulation 1.6.

2. A non-governmental source means any intergovernmental organization, non-governmental organization or any private source.

* * *

Conflict of interest

Regulation 1.2 (n)

Staff members shall not be actively associated with the management of, or hold a financial interest in, any profit-making, business or other concern, if it were possible for the staff member or the profit-making, business or other concern to benefit from such association or financial interest by reason of his or her position with the United Nations.

Commentary

1. Draft staff regulation 1.2 (n) reproduces the essence of staff rule 101.6 (b) and clarifies its scope. The provision is being made a draft staff regulation because of its importance. Its purpose is to put staff on notice that they cannot be actively associated with a profit-making, business or other concern, if either the concern or the staff member is to profit by the association with the Organization. For example, a staff member working in the Office of Legal Affairs cannot act for outside clients. It will be for the Secretary-General to judge whether a particular act raises a conflict of interest situation.

2. This provision does not seek to affect the efforts of staff associations to raise funds for their activities from staff.

* * *

Regulation 1.2 (o)

All staff members at the Assistant Secretary-General level and above shall be required to file financial disclosure statements on appointment, and at intervals as prescribed by the Secretary-General, in respect of themselves, their spouses and dependent children. The Secretary-General may require other staff to file such statements, either on occasion or periodically. The Secretary-General shall prescribe the format of and information to be provided in such statements. The financial disclosure statements will remain confidential and will only be used, as prescribed by the Secretary-General, in making determinations pursuant to staff regulation 1.2 (n).

Commentary

1. Draft staff regulation 1.2 (o) requires all staff at the Assistant Secretary-General level and above to submit financial disclosure statements on appointment and at intervals as prescribed by the Secretary-General. This requirement is designed to minimize the risk of officials being perceived as using their position for personal gain. The draft regulation makes it clear that these financial disclosure statements will remain confidential and will only be used by the Secretary-General in assessing whether a conflict of interest situation exists.

2. Draft staff regulation 1.2 (o) also gives to the Secretary-General the authority to prescribe the form of such disclosure statements and the periodicity of their filing and authorizes him to establish procedures to ensure that the statements remain confidential.

3. The provision also enables the Secretary-General to require other categories of staff to file such financial disclosure statements, either for particular reasons or on a periodic basis.

* * *

Outside employment and activities

Regulation 1.2 (p)

Staff members shall not engage in any outside occupation or employment, whether remunerated or not, without the approval of the Secretary-General.

Commentary

1. Draft staff regulation 1.2 (p), which is based on staff rule 101.6 (e), reflects the Organization's long-standing policy on outside occupation or employment, whether during or outside the work week (see the ICSAB report, paras. 50-52).

2. The notion of occupation includes the practice of a profession (whether as an employee or an independent contractor). Employment is a legal relationship pursuant to which one person is providing work and skill at the control and direction of another.

* * *

Regulation 1.2 (q)

The Secretary-General may authorize staff members to engage in an outside occupation or employment, whether remunerated or not, if:

(i) The outside occupation or employment does not conflict with the staff member's official functions or the status of an international civil servant;

(ii) The outside occupation or employment is not against the interest of the United Nations; and

(iii) The outside occupation or employment is permitted by local law at the duty station or where the occupation or employment occurs.

Commentary

1. Draft staff regulation 1.2 (q) is new and sets out in specific terms the Organization's long-standing requirements that have to be met before a staff member may be given permission to engage in an outside occupation or employment. The key factors in determining whether permission should be granted relate to the compatibility of that occupation or employment with the status and functions being discharged by the staff member and with the interest of the United Nations. In addition, the occupation or employment must be permitted by local law. If the Secretary-General decides that permission for such occupation or employment should be denied, a reason will be given.

2. The first requirement is that there be no conflict with the staff member's official functions or with the staff member's status as an international civil

servant. For example, it would not be appropriate for a member of the Office of Legal Affairs to be working part-time in an outside law firm.

3. The second requirement is that such occupation or employment not be against the interest of the United Nations, that is, that the occupation or employment does not reflect adversely upon the United Nations. For example, permission would not be granted for a staff member to work with an organization the goals of which are incompatible with those of the United Nations or to work in a capacity that could call into question the impartiality and independence of the staff member.

4. The third requirement is that the occupation or employment be permitted under the law of the duty station concerned. For example, in the United States of America, staff holding G-4 visas are not permitted under local law to accept outside employment, or to earn money from an occupation, so no permission would be granted.

5. It should be remarked that private non-remunerated activities that have nothing to do with a staff member's official functions would be at the discretion of the staff member (for example, the secretary of a stamp club) (see the ICSAB report, para. 53).

6. Private activities that relate to the United Nations are regulated by draft staff rule 101.2 (p).

* * *

Use of property and assets

Regulation 1.2 (r)

Staff members shall only use the property and assets of the Organization for official purposes and shall exercise reasonable care when utilizing such property and assets.

Commentary

1. Draft staff regulation 1.2 (r) is new and makes explicit the duty to use reasonable care when utilizing the property and assets of the Organization, which duty is behind several provisions in the Financial Rules and the Staff Rules.

2. Management accountability for the way in which staff resources are utilized is discussed in the Commentary to draft staff rule 101.3 (a).

* * *

Regulation 1.2 (s)

Staff members must respond fully to requests for information from staff members and other officials of the Organization authorized to investigate possible misuse of funds, waste or abuse.

Commentary

1. Draft staff regulation 1.2 (s) builds on the obligation to supply information set out in staff rule 104.4. This provision seeks to ensure that staff members clearly understand that they must cooperate with official investigations by the Organization and must supply information on their official actions to, for example, the internal or external auditors. Such requests are not in the nature of criminal inquiries where an individual may refuse to answer on the basis of self-incrimination. The issue in the employment relationship between a staff member and the Organization is whether the highest standards of competence, efficiency and integrity have been met.

2. The Secretary-General has the authority to request staff to supply information and the staff have a duty to respond. This is without prejudice to the rights of staff under chapter X of the Staff Regulations and Rules. It should be noted that, although the Secretary-General obviously has control of United Nations premises, any investigations that involve the staff member's home would require the consent of the staff member or would have to be conducted by the appropriate authorities in accordance with national law.

3. If, after investigation, a staff member is charged with misconduct, the staff member is entitled to all the due process protections set out in the Staff Regulations and Rules and administrative issuances promulgated thereunder. This includes the freedom to decide whether the staff member wishes to make any statements or submissions in response to the charge.

* * *

Draft staff rule 101.2

Basic rights and obligations of staff

General

Rule 101.2 (a)

Disciplinary procedures set out in article X of the Staff Regulations and chapter X of the Staff Rules may be instituted against a staff member who fails to comply with his or her obligations and the standards of conduct set out in the Charter of the United Nations, the Staff Regulations and Rules, the Financial Regulations and Rules and all administrative issuances.

Commentary

1. Draft staff rule 101.2 (a) is new. It will ensure that staff are held accountable through disciplinary procedures for failure to comply with their obligations and the standards of conduct, set out in the Charter of the United Nations, the Staff Regulations and Rules, the Financial Regulations and Rules and all related issuances. Administrative issuances refer to issuances promulgated by the Secretary-General, or by those who are delegated authority by the Secretary-General, in furtherance of the Staff Regulations and Rules and the Financial Regulations and Rules (see ST/SGB/1997/1).

* * *

Rule 101.2 (b)

Staff members shall follow the directions and instructions properly issued by the Secretary-General and their supervisors.

Commentary

1. Draft staff rule 101.2 (b) deals with the obligation of staff to follow directions properly given by supervising officials (see the ICSAB report, paras. 15 and 16). The use of the word "properly" means that a supervisor who gives improper instructions will be held accountable since draft staff regulation 1.1 (c) introduces an affirmative duty on the Secretary-General to ensure that the rights and duties of staff are respected.

2. In its 1954 report, the International Civil Service Advisory Board noted that a staff member has a duty to obey instructions but also a right to have instructions put in writing if he or she has serious doubt as to the compatibility of the instruction with the regulations and rules of the Organization (ibid., para. 16). Although it is clear that staff must follow instructions, it should also be noted that staff have a right to appeal instructions that they consider infringe their rights pursuant to chapter XI of the Staff Rules.

3. Obviously, staff do not have to follow instructions that are manifestly inconsistent with their official functions or threaten their safety or have nothing to do with their official activities since such instructions are not proper. Such cases are rare and can usually be handled by seeking a review from the next level supervisor or by consulting the Office of Human Resources Management.

* * *

Rule 101.2 (c)

Staff members must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.

Commentary

1. Draft staff rule 101.2 (c) is really an amplification of draft staff regulation 1.1 (f) (presently staff regulation 1.8), which provides that the privileges and immunities of the Organization afford no excuse to staff for non-performance of their private obligations (see the ICSAB report, paras. 32, 54 and 55). Non-performance of court-ordered obligations, such as alimony, child support payments or other indebtedness, has been a recurrent problem as salaries payable to staff cannot be garnisheed at the source because of the privileges and immunities of the Organization, thus taking away the most effective remedy private law would otherwise make available to the party obtaining the judgement.

2. Draft staff rule 101.2 (c) makes clear to staff that they have an obligation to honour such private obligations. This provision will assist the Organization effectively to ensure that staff respect court orders relating to their private obligations. In the event that a plaintiff forwards to the Organization a court order against a staff member, the Administration will seek the views of the staff member before taking any action on the basis of that order. It is the responsibility of staff who have an order against them that they contest to avail themselves of all existing means under the applicable national law to appeal the order and/or obtain relief from the obligation to comply with the order pending its appeal.

3. Failure to honour such private obligations may be treated as a disciplinary matter under article X of the Staff Regulations and chapter X of the Staff Rules.

* * *

Specific instances of prohibited conduct

Rule 101.2 (d)

Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse at the workplace or in connection with work, is prohibited.

Commentary

1. Draft staff rules 101.1 (d) to (i) deal with specific instances of prohibited conduct.

2. Draft staff rule 101.2 (d) reproduces the core of the Secretary-General's Bulletin of 29 October 1992 (ST/SGB/253), which established United Nations policy on equal treatment of men and women in the Secretariat and which also prohibits all forms of discrimination or harassment.

* * *

Rule 101.2 (e)

Staff members shall not disrupt or otherwise interfere with any meeting or other official activity of the Organization, nor shall staff members threaten, intimidate or otherwise engage in any conduct intended, directly or indirectly, to interfere with the ability of other staff members to discharge their official duties.

Commentary

1. Draft staff rule 101.2 (e) prohibits actions that threaten, intimidate or interfere with official functions and activities.

2. The rule is not intended to prevent permitted activities such as the right of staff to peaceful assembly, the right of representatives of staff representative bodies to address the Fifth Committee or other organs that have authorized such procedures or for staff to meet in authorized meeting rooms. What is prohibited are actions that prevent Member States, departments, offices, staff and other authorized persons from holding a meeting or carrying out an official activity. Ultimately the application of the rule will be judgemental but the test is reasonably clear in that conduct which prevents others from performing official functions is not permitted.

3. It is noted that at times staff representatives have for certain periods suspended participation in joint bodies. Withdrawal by staff representatives from joint bodies does not constitute interference with official functions since the Tribunal has ruled that, in such cases, the Administration may proceed without the consultation normally needed pursuant to article VIII of the Staff Regulations and chapter VIII of the Staff Rules.

* * *

Rule 101.2 (f)

Staff members shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

Commentary

Draft staff rule 101.2 (f) prohibits the intentional misrepresentation of official title or duties to outside parties, for example, by placing misleading titles on business cards, usually for private advantage. The use of the word "intentional" makes clear that this is not a careless or accidental act.

* * *

Rule 101.2 (g)

Staff members shall not intentionally alter, destroy, misplace or render useless any official document, record or file entrusted to them by

virtue of their functions, which document, record or file is intended to be kept as part of the records of the Organization.

Commentary

Draft staff rule 101.2 (g) puts staff on notice that the intentional unauthorized destruction, alteration or misplacement of records, which were intended to form part of the official files of the Organization, Department or Office, is prohibited. This has been a problem from time to time in disciplinary cases when key documents are found to be missing from official files of the Organization. The use of the word "intentional" makes clear that this is not a careless or accidental act.

* * *

Rule 101.2 (h)

Staff members shall not seek to influence Member States, principal or subsidiary organs of the United Nations or expert groups in order to obtain a change from a position or decision taken by the Secretary-General, including decisions relating to the financing of Secretariat programmes or units, or in order to secure support for improving their personal situation or the personal situation of other staff members, or for blocking or reversing unfavourable decisions regarding their status or their colleagues' status. This provision shall not abrogate the right of the representatives of staff representative bodies to address and advocate their views to legislative bodies that have authorized them to submit their views.

Commentary

1. Draft staff rule 101.2 (h) reproduces provisions from the information circular of 2 February 1996 (ST/IC/1996/10) concerning conduct of staff members in relation to Member States (see the ICSAB report, paras. 18-32, in particular, paras. 25, 26 and 28). The draft rule seeks to make clear that lobbying Member States by individual staff members against positions taken by the Secretary-General is not permitted.

2. The rule does not affect the right of representatives of staff representative bodies to make submissions and advocate the position of staff to legislative bodies and other organs that have authorized such participation (such as the Fifth Committee, the International Civil Service Commission, the United Nations Joint Staff Pension Fund and so on) (ibid., paras. 29 and 30).

* * *

Rule 101.2 (i)

Staff members shall neither offer nor promise any favour, gift, remuneration or any other personal benefit to another staff member or to any third party with a view to causing him or her to perform, fail to perform or delay the performance of any official act. Similarly, staff

members shall neither seek nor accept any favour, gift, remuneration or any other personal benefit from another staff member or from any third party in exchange for performing, failing to perform or delaying the performance of any official act.

Commentary

The prohibition in draft staff rule 101.2 (i) applies to the staff member's relations with other staff members and to the staff member's relations with third parties. While the general proposition is that the practices described in the rule violate the highest standards of integrity required of staff members (see the ICSAB report, paras. 14 and 17), the purpose of the draft rule is specifically to deal with "détournement de pouvoir", "traffic d'influence" and other improper or even corrupt practices.

* * *

Honours, gifts or remuneration

Rule 101.2 (j)

Acceptance by staff members of any honour, decoration, favour, gift or remuneration from non-governmental sources requires the prior approval of the Secretary-General. Approval shall be granted only in exceptional cases and where such acceptance is not incompatible with the interests of the Organization and with the staff member's status as an international civil servant. However, staff members may occasionally accept, without prior approval, minor gifts of essentially nominal value having regard to the duty station concerned, provided that all such gifts are promptly disclosed to the head of the office, who may direct that the gift be entrusted to the Organization or returned to the donor.

Commentary

1. Draft Staff rule 101.2 (j) implements draft staff regulation 1.2 (m). It provides guidance on what honours, decorations, favours, gifts or remuneration may be accepted from non-governmental sources (see the ICSAB report, para. 43). In essence, advance approval is required unless the gifts are of essentially nominal value, having regard to the duty station concerned. Acceptance of such items of essentially nominal value would not seem to present any significant risk of undermining the integrity or independence of staff members. The rule thus permits the staff member to accept gifts of essentially nominal value in view of the significant cost and effort that would be involved if staff members were required to seek prior approval.

2. The assessment of what is of "essentially nominal value" must be left to the best judgement of the staff member and the head of the office in the light of circumstances at the duty station concerned, since what is considered a minor gift at a Headquarters duty station may take on a different significance in a small field office. The problem is regulated through a requirement for staff either to obtain permission in advance or to disclose what they have received to the head of the office. It will be up to the head of the office to determine

what is acceptable and, if he or she is in doubt, higher authorities may be consulted. As a safeguard against possible abuse, all gifts received in this manner are to be disclosed to the head of the office, who will have authority to direct that gifts already received be returned.

* * *

Rule 101.2 (k)

The Secretary-General may authorize staff members to accept from a non-governmental source or a university academic awards, distinctions and tokens of a commemorative or honorary character, such as scrolls, certificates, trophies or other items of essentially nominal monetary value.

Commentary

Draft staff rule 101.2 (k) is based on staff rule 101.9 (d) and permits the Secretary-General to authorize staff members to accept certain awards, distinctions and tokens from a non-governmental source or from a university. The rule provides that, for the purpose of the rule, universities are not considered government sources since, in many countries, they are not so considered and it would be incongruous for a staff member to be authorized to accept an honorary degree or certificate from universities in some, but not all, countries.

* * *

Rule 101.2 (l)

Staff members, as part of their official functions, will be expected from time to time to attend governmental or other functions such as meals and diplomatic receptions. Such attendance is not considered receipt of a favour, gift or remuneration within the meaning of the Staff Regulations and Rules.

Commentary

Draft staff rule 101.2 (l) is new and deals with the issue of attendance at various official functions. It is clear that international officials are required, from time to time, to attend luncheons, dinners and diplomatic receptions. Such attendance will not be considered by the Secretary-General a favour or gift within the meaning of the Code of Conduct.

* * *

Rule 101.2 (m)

The Secretary-General may, in exceptional cases, provided that this is in the interest of the United Nations and not incompatible with the staff member's status, authorize a staff member to receive from a

non-governmental source an honour, decoration, favour, gift or remuneration other than those referred to in staff rules 101.2 (j) to (l) above.

Commentary

Draft staff rule 101.2 (m) enables the Secretary-General, on an exceptional basis, to authorize a staff member to accept an honour, decoration, favour, gift or remuneration from a non-governmental source that falls outside draft staff rules 101.2 (j) to (l) as long as such acceptance is in the interests of the United Nations and not inconsistent with the staff member's status. This provision flows from staff rule 101.9 (c) since it is not possible to define in advance what may be accepted from a non-governmental source.

* * *

Conflict of interest

Rule 101.2 (n)

A staff member who has occasion to deal in his or her official capacity with any matter involving a profit-making, business or other concern in which he or she holds a financial interest, directly or indirectly, shall disclose the measure of that interest to the Secretary-General and, except as otherwise authorized by the Secretary-General, either dispose of that financial interest or formally excuse himself or herself from participating with regard to any involvement in that matter which gives rise to the conflict of interest situation.

Commentary

1. Draft staff rule 101.2 (n) is based on staff rule 101.6 (c). However, the second part is new and deals with the consequences of a staff member disclosing to the Secretary-General that he or she has an interest, direct or indirect, in a profit-making business or other concern (whether profit-making or not-for-profit) with which the United Nations is dealing. In such cases, the Secretary-General will direct the staff member either to dispose of the interest or, if practicable, will excuse the staff member from dealing with the matter.

2. This provision departs from the current provision in staff rule 101.6 (d), which provides that the mere holding of shares in a company does not constitute a financial interest that would require disclosure. This provision has been deleted in the interest of transparency and the need to avoid any appearance of conflict of interest. The new provision requires that a staff member, with shares in a corporation with which he or she is to deal, would disclose that interest to his or her supervisor. Obviously whether there was a conflict would depend on the extent of the holding and on the nature of the staff member's duties. The object of the provision is to compel disclosure so that the Secretary-General can decide if there is a conflict situation before a problem arises. In addition, further disclosure could be required pursuant to draft regulation 1.2 (o).

3. If informal procedures are not sufficient to deal with questions that arise under this rule, the Secretary-General could establish confidential procedures whereby staff could obtain advice on such conflict situations. However, the common sense approach of excusing oneself from any dealings with an entity with which one has a substantial interest would normally be appropriate.

* * *

Rule 101.2 (o)

The Secretary-General shall establish procedures for the filing and utilization of financial disclosure statements.

Commentary

Draft staff rule 101.2 (o) provides that the Secretary-General will establish procedures to implement the filing and access to financial disclosure statements. These procedures will ensure that the confidentiality of such forms is respected.

* * *

Outside activities

Rule 101.2 (p)

Staff members shall not, except in the normal course of official duties or with the prior approval of the Secretary-General, engage in any of the following acts, if such act relates to the purpose, activities or interests of the United Nations:

(i) Issue statements to the press, radio or other agencies of public information;

(ii) Accept speaking engagements;

(iii) Take part in film, theatre, radio or television productions;

(iv) Submit articles, books or other material for publication.

Commentary

1. Draft staff rule 101.2 (p) is based on staff rule 101.6 (e) (see the ICSAB report, para. 42).

2. The rule only requires that a staff member seek permission if the outside activities relate to the purpose, activities or interests of the United Nations. If a request is denied, a reason for that refusal will be given. No permission is needed for social or charitable activities or for activities that have no relation to the Organization.

3. Outside activities that are of benefit to the Organization or the achievement of its goals and contribute to the development of professional skills of staff members are usually not only permitted but also encouraged, for example, the publication of scholarly articles, participation in symposia and limited teaching activities.

* * *

Rule 101.2 (q)

Membership in a political party is permitted, provided that such membership does not entail action, or an obligation to take action, by the staff member contrary to staff regulation 1.2 (i). The payment of normal financial contributions to a political party shall not be construed as an activity inconsistent with the principles set out in staff regulation 1.2 (i).

Commentary

Draft staff rule 101.2 (q) reproduces the essence of staff rule 101.8 (a) (see the ICSAB report, paras. 33-37).

* * *

Rule 101.2 (r)

The Secretary-General shall establish procedures whereby staff may seek in confidence clarification as to whether proposed outside activities would conflict with their status as international civil servants.

Commentary

Draft staff rule 101.2 (r) is new and seeks to assist staff to determine if there are conflict situations by requiring the establishment of procedures to enable the staff to seek confidential guidance on these issues (see the ICSAB report, para. 37).

* * *

Travel and per diem for outside activities

Rule 101.2 (s)

Staff members who are authorized by the Secretary-General to participate in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source, may receive from the Government, intergovernmental organization, non-governmental organization or private source, accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases the travel subsistence allowance that may otherwise be payable by the United Nations shall be reduced as envisaged in staff rule 107.15 (a).

Commentary

Draft staff rule 101.2 (s) is new and distinguishes the notion of gifts and so on from invitations routinely extended by Governments, intergovernmental organizations, non-governmental institutions or other private sources to the Secretary-General and staff members to attend conferences or meetings dealing with United Nations-related matters hosted by them. This is currently routinely authorized by the Secretary-General and the draft rule reflects that current practice. It also provides an opportunity for the Organization to save on allowances that may be payable by the Organization by having the accommodation or travel and subsistence allowance provided by the Government, intergovernmental organization, non-governmental organizations or private source and by reducing the travel subsistence allowance that may otherwise be payable to the staff member.

* * *

Draft staff regulation 1.3

Performance of staff

Regulation 1.3 (a)

Staff members are accountable to the Secretary-General for the proper discharge of their functions. Staff members are required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions and their performance will be appraised periodically to ensure that the required standards of performance are met.

Commentary

1. Much of draft staff regulation 1.3 deals with the standards of performance required of staff members and provides that they will be evaluated and held accountable to meet the required standards established by the Charter. Since the separately funded organs have systems of assessing performance that are adapted to meet their special needs, the provisions in the draft regulation must remain very general. The draft regulation now explicitly places on managers the duty to make proper appraisals of performance, which reinforces the solid legislative basis for such procedures and practices.

2. Draft staff regulation 1.3 (a) makes it clear that staff members are required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions (see Article 101 of the Charter and the ICSAB report, paras. 4-9, 56 and 57). The regulation introduces the concept of accountability for performance as a fundamental condition of service.

3. The relationship of integrity to performance is discussed in the Commentary to draft staff rule 101.3 (a).

* * *

Regulation 1.3 (b)

The whole time of staff members shall be at the disposal of the Secretary-General for the performance of official functions; however, the Secretary-General shall establish a normal working week and shall establish official holidays for each duty station. Exceptions may be made by the Secretary-General as the needs of the service may require and staff members shall be required to work beyond the normal tour of duty when requested to do so.

Commentary

Draft staff regulation 1.3 (b) combines the last two sentences of staff regulation 1.2 into one sentence to make it clear that, although staff normally work an ordinary working week, they must work in excess of that working week when directed (see the ICSAB report, paras. 50 and 51). It is, of course, clear that any requests to work additional hours must be reasonable and must be related to the needs of the service. Appropriate compensation arrangements are included in appendix B to the Staff Rules. The draft regulation abolishes the requirement that those working hours must be reflected in an appendix to the Staff Rules as opposed to being issued in a local instruction.

* * *

Draft staff rule 101.3

Performance of staff members

Rule 101.3 (a)

Staff members shall be evaluated for their efficiency, competence and integrity through performance appraisal mechanisms that shall assess the staff member's compliance with the standards set out in the Staff Regulations and Rules for purposes of accountability.

Commentary

1. Draft staff rule 101.3 makes explicit that the efficiency, competence and integrity required of staff by the Charter and the Code of Conduct will be evaluated and that they will be held accountable to maintain the required standards.

2. Generally speaking an appraisal relates primarily to efficiency and competence, but integrity is part of the essential characteristic of an international civil servant and may have an impact on the performance of official duties. For example, abusive conduct by a staff member to his or her colleagues is not excused even though the staff member is efficient. On the other hand, the staff member's personal life is generally of no concern to a supervisor unless there is an impact on the discharge of his or her functions or on the role of that person as an international civil servant. As noted in paragraph 4 of the report of the International Civil Service Advisory Board:

"Integrity, while perhaps not subject to exhaustive and precise definition, must be judged on the basis of the total behaviour of the person concerned. Such elementary personal or private qualities as honesty, truthfulness, fidelity, probity and freedom from corrupting influences, are clearly included. For the international official, however, the Charter also requires integrity as a public official, and especially as an international public official. Perhaps the clearest expression of this is the fact that he has dedicated himself to regulate his conduct with the interests of the international organization only in view. It follows that he must subordinate his private interests and avoid placing himself in a position where those interest would conflict with the interest of the organization he serves."

3. It is important to note that competence and efficiency of staff include not only the way in which they perform their tasks but the way in which they interact with others. As noted in the report of the Advisory Board, the obligations of staff to their supervisors, and of supervisors to their staff, is of crucial importance. Those duties and obligations bear repeating in this Commentary:

"12. Within the secretariats the obligations of supervisors to staff under their direction and of each staff to their superior officers are of particular importance. Clearly those in the highest offices, followed by those at lower supervisory levels, must set the tone by personal example, and accept their responsibility for the guidance and training of their staff. It is important not only that supervisors be motivated by an attitude of impartiality, tolerance and understanding but that they act in such a way that this attitude is widely recognized as being their underlying motivation throughout.

"13. It is essential for the development of a spirit of mutual understanding that supervisors strike a proper balance between the need for maintaining discipline and the need for understanding and fair treatment of their staff. An important element in this balance is the exercise of scrupulous care by supervisors in allowing the views of their junior officers to be heard, particularly when those views are opposed to their own, and in seeing that due recognition is given to the merits of an individual. This is especially important in international organizations, where there is need for persons of all nationalities to make their contributions and where there are inevitable differences in cultural backgrounds, in approach to work, and in methods of expressing opinions.

"14. It is axiomatic that the conduct of supervisors must be free of intimidation or personal favouritism and that solicitation or acceptance by them of favours, gifts, or loans from their staff must not be practised or even suspected.

"15. For his part, the subordinate official must recognize the importance of intellectual discipline and regulate his conduct accordingly. He must accept the obligation to put before his superiors all the relevant facts and considerations relating to a current question, without concealment. While he has the right, which should be safeguarded, to record his views in

the official files, it is his duty to accept, carry out, and even defend decisions of his superiors once they are taken, whether or not they accord with his own opinions. Any public or repeated expressions of disagreement with such decisions can only weaken the organization."

4. It should be emphasized that supervisors will be assessed not only on their technical competence but also on the way in which they utilize the staff placed under their direction.

* * *

Rule 101.3 (b)

The Secretary-General shall seek to ensure that appropriate learning and development programmes are available for the benefit of staff.

Commentary

As staff are required to uphold the highest standards of efficiency and competence and integrity, it follows that during their careers the Secretary-General must seek to ensure that staff are provided with learning and development opportunities to equip them to meet the challenges of responding effectively to the changing mandates of the Organization.

* * *

Rule 101.3 (c)

Performance reports shall be prepared regularly in accordance with procedures promulgated by the Secretary-General.

Commentary

Draft staff rule 101.3 (c) replaces staff rule 112.6 and provides that appraisal will be pursuant to procedures promulgated by the Secretary-General.

B. Table of Concordances

Draft staff regulation	Draft staff rule	Staff regulation	Staff rule
1.1 (a)		1.1	
1.1 (b)		1.9 and 1.10	
1.1 (c)		New	
1.1 (d)		New	
1.1 (e)		New	
1.1 (f)		1.8	
1.2 (a)		New	
1.2 (b)		New	
1.2 (c)		1.2	
1.2 (d)		1.3	
1.2 (e)		1.1 and 1.9	
1.2 (f)		1.4	
1.2 (g)		New	
1.2 (h)		1.5	
1.2 (i)		1.7	
1.2 (j)		1.5	
1.2 (k)		1.6	
1.2 (l)		New	
1.2 (m)		1.6	
1.2 (n)			101.6 (b)
1.2 (o)		New	
1.2 (p)			101.6 (e)
1.2 (q)		New	
1.2 (r)		New	
1.2 (s)			Resolution 48/218 104.4
	101.2 (a)		New
	101.2 (b)		New

Draft staff regulation	Draft staff rule	Staff regulation	Staff rule
	101.2 (c)		New
	101.2 (d)		ST/SGB/253
	101.2 (e)		New
	101.2 (f)		New
	101.2 (g)		New
	101.2 (h)		ST/SGB/202
	101.2 (i)		New
	101.2 (j)		101.9 (a) and (c)
	101.2 (k)		101.9 (d)
	101.2 (l)		New
	101.2 (m)		101.9 (c)
	101.2 (n)		101.6 (c)
	101.2 (o)		New
	101.2 (p)		101.6 (e)
	101.2 (q)		101.8 (a)
	101.2 (r)		New
	101.2 (s)		New
1.3 (a)		1.2	
1.3 (b)		1.2	
	101.3 (a)		New
	101.3 (b)		New
	101.3 (c)		112.6

ANNEX III

Standards of conduct in the International Civil Service 1954

Report of the International Civil Service Advisory Board

PREFACE

This "Report on standards of conduct in the international civil service" was prepared by the International Civil Service Advisory Board (ICSAB) in 1954, at the request of the Administrative Committee on Co-ordination (ACC). The preface to the 1965 edition, which describes the origin of the report and the way in which it was prepared, also recalls that ACC had expressed the hope that it would receive wide circulation among international civil servants. That hope has been amply fulfilled; many organizations make a practice of handing a copy to each new staff member.

Certainly, much has changed in the world and in the organizations of the United Nations system in the 32 years since the report was prepared. Due note must be taken of the changes; nevertheless, ACC is convinced that the basic guidance set out in the ICSAB report has lost none of its validity and pertinence for international civil servants in today's changed circumstances. ACC has therefore decided that the report should be reissued, in the belief that the standards it sets forth continue to be as valuable to staff members today as they have been in the past.

One of the changes which has occurred is that the body which drafted the report, ICSAB, has ceased to exist, having been replaced in 1975 by the International Civil Service Commission. The report's status is in no way diminished thereby; it was originally issued, and continues to be so, under the authority of ACC.

The most important substantive change is perhaps in the vastly increased importance in the work of the organizations of operational activities, particularly development co-operation activities, which were barely beginning in the early 1950s. The report thus deals mostly with the conduct of international civil servants in the context of the conventional servicing functions of the organizations; but, even if these are no longer predominant in most organizations, what is said regarding them, for example in paragraph 24, remains true. Similarly, the advice on conduct of staff members serving away from Headquarters given in paragraphs 44 to 49 is still pertinent, although it does not reflect the situation of staff members co-operating in projects for which the host country is responsible, nor the support which individual staff members serving in the field can now in most cases receive from field offices and project structures in their relations with national authorities; staff members being sent on mission or assigned to projects are normally given additional briefing on the special conditions in which they will be called upon to operate.

Another area where change has occurred is that of the role of elected staff representatives. Recognition of the right of staff members to participate, through their representatives, in the consideration of questions relating to their conditions of service has made welcome progress well beyond the position described in paragraphs 29 and 30; in particular, staff representatives are now admitted to address the governing bodies of many organizations when personnel questions are being discussed. Whatever the form in which staff participation is organized, however, the basic principles of respect for mutual obligations and for the "rules of the game" recalled by ICSAB remain essential to the effective and harmonious working of the secretariats.

What has not changed is the need for the highest standards of efficiency, competence and integrity in the international civil service; without those qualities, the organizations could no longer fulfil the purposes for which they were established. The pressures which threaten the independence and impartiality of international civil servants are, however, greater today than ever; it is, then, all the more important that staff members, for their part, conduct themselves in a way which will enhance the image of their service and will give no foothold to attempts to influence them improperly in the performance of their duties. The executive heads trust that this report will both provide them with timely guidance and, at the same time, strengthen them with the knowledge that the standards they are expected to uphold are the same as have been set for staff members since the inception of the United Nations system of organizations.

FOREWORD

1. At the request of the Executive Heads of the United Nations and the specialized agencies the question of standards of conduct in the international civil service has been considered by the International Civil Service Advisory Board. A preliminary review was made during the Board's fourth session, held in Geneva from 12 to 16 May 1952. At that time the Board was convinced of the lasting importance of the subject, and of the direct relation between high standards of conduct within the international secretariats and the success of the international organizations in achieving their aims. After reviewing the subject again during its fifth session, held in New York from 22 to 30 March 1954, and taking into account the additional two years of experience in the relatively young international organizations, the Board has prepared the present report in the hope that it will contribute to improved understanding of the status and obligations of international civil servants.

2. The Board considers that high standards of conduct are best attained by a universal understanding among staff members of the relation between their conduct and the success of the international organizations, and by the development of a strong tradition among men and women who are jealous of the reputation of the organizations they serve and are anxious to safeguard it. The Board's chief hope is that it can offer a formulation of standards which will facilitate the development of such a tradition in organizations which have grown rapidly and which encompass a wide diversity of national and cultural backgrounds.

3. In examining what is clearly a delicate and complex subject, the Board has endeavoured to avoid the pitfalls, on the one hand, of a purely theoretical approach, and, on the other, of attempting to write detailed guides to behaviour covering all possible circumstances. The general duties and obligations of international civil servants are already set forth in the United Nations Charter and in the comparable basic instruments (variously called Constitutions, Conventions etc.) of the specialized agencies. They are further elaborated in the staff regulations and rules. By underlining certain basic principles, and by suggesting practical applications of these principles to concrete situations, the Board has aimed at promoting increased understanding and improved practices. It is not attempting in any way to "legislate" on the subject of standards of conduct, but rather to aid in establishing a general doctrine or code of behaviour. The staff regulations and rules of the international organizations will continue to form the "law" relating to the conduct of the international civil servant, but it is hoped that the present report may both serve as a complementary guide for the staff members and assist the Executive Heads of the organizations in the application and development of the staff regulations and rules.

I. Basic considerations

4. One of the fundamental, if not paramount, standards of conduct derives from the requirement of integrity, underlined in Article 101 of the United Nations Charter and explicit or implicit in corresponding articles of the basic instruments of the specialized agencies. Integrity, while perhaps not subject to exhaustive and precise definition, must be judged on the basis of the total behaviour of the person concerned. Such elementary personal or private qualities as honesty, truthfulness, fidelity, probity and freedom from corrupting influences, are clearly included. For the international official, however, the Charter also requires integrity as a public official, and especially as an international public official. Perhaps the clearest expression of this is the fact that he has dedicated himself to regulate his conduct with the interests of the international organization only in view. It follows that he must subordinate his private interests and avoid placing himself in a position where those interests would conflict with the interests of the organization he serves.

5. A second basic requirement is the necessity of developing and maintaining what the Board has previously referred to as an international

outlook, based on loyalty to the international organization:

"This outlook flows from an understanding of and loyalty to the objectives and purposes of the international organization itself as set forth in its Charter or Constitution. The acceptance of the oath of office and of the basic obligation to serve wholeheartedly and completely the organization's interests needs to be worked out in many directions. It involves willingness to try to understand and be tolerant of different points of view, different cultural patterns, and different work habits. It also entails willingness to work without prejudice or bias with persons of all nationalities, religions and cultures. It means a readiness to be continually conscious of how proposals, events and statements of opinion may appear to a very wide range of nationalities. It involves conduct of the highest type and exercise of judgment and restraint in all expressions of view whether public or private; any expressions which could be construed as biased or intolerant, particularly in respect of national interests or political issues with which the organization is confronted, must be scrupulously avoided. At the same time it should be quite clear that the staff member is in no way required or expected to give up his personal or political views or his national characteristics. In fact, the highest type of loyal international civil servant is one who finds that whatever his personal views he can willingly conform to the observance of his international obligations and support the decisions of the international organization he serves ..... What is essential is not the absence of personal, political, or national views, but rather restraint at all times, not merely during working hours, in the expression of such views."[1]

6. It is important to remember that the United Nations and the specialized agencies have a common purpose - to serve the broad ideals of peace, economic and social progress, and the promotion of co-operative and friendly relations among the nations of the world. The Board would emphasize, therefore, that international loyalty means loyalty on the part of the staff member to the whole United Nations family of organizations, and not merely to one particular organization. The staff members of the various organizations will have repeated opportunities, and indeed have the obligation, to understand and exemplify this wider loyalty. Not least will be the opportunity presented when representatives of the various secretariats are serving together in the field and on advisory assignments in the same country or region.

7. A third requirement closely related to international loyalty is that the international civil servant must, in the exercise of his functions, remain independent of any authority outside the organization he serves, and that his conduct should at all times reflect such independence. In taking his oath of office he has undertaken an obligation not to seek or accept instructions in regard to the performance of his duties from any government or other authority external to his organization. It is not only the strict letter of this oath but the spirit which must be understood and adhered to.

8. To integrity, international outlook and independence, must be added impartiality. Impartiality implies objectivity, lack of bias, tolerance, restraint - particularly when political or religious disputes or differences arise. The staff member's personal views and convictions remain inviolate, but he has not the freedom of a private person to "take sides", to enter a dispute as a partisan, or publicly to express his convictions on matters of a controversial nature, either singly or as a member of a group. Just as the practice of impartiality will strengthen the secretariat, repeated instances of partiality, or bias, will do serious harm to the organization.

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1 International Civil Service Advisory Board, Report on In-Service Training in the United Nations and the Specialized Agencies (Coord/Civil Service/4), page 4, paragraph 7.

9. The Board would emphasize that the international civil servant's duty to maintain high standards of conduct and attitude is a positive and active obligation, and not merely a negative or passive one. He must, therefore, feel personally responsible for contributing to the broad ideals to which he dedicated himself in joining his organization.

II. Conduct within a Secretariat

10. For the international civil servant, particularly if newly appointed, the Board considers the following statement to be an excellent guide for official relationships with other staff members:

> "It is clear that in his day-to-day work and dealings with other officials of the organization the international civil servant has his most immediate opportunity and obligation to demonstrate his 'international-mindedness'. The international secretariat is in itself a great school, where intercourse with those of so many diverse nationalities will rub off one's rough spots and sharp edges. No one who believes that the attitudes, or the working methods and work habits, of his own nationality or of his own region are the only ones worthy of acceptance and utilization can long be successful in international work. In fact, I have always found that within an international secretariat, and, indeed, within each section or office of such a secretariat, one of the most concrete opportunities exists for demonstrating in a small way that the underlying premises of the Charter are sound and workable. It is perhaps a temptation particularly in the first stages of one's career to be impatient with or intolerant of the methods adopted and contribution made by persons of a different background and habits of work than your own."[2]

11. The true international civil servant, however, must pass this test. The Board would go even further and state that in the field of social relations the staff member also has an opportunity if not an obligation to demonstrate his "international-mindedness". The cultivation of social relations with colleagues of different races, religions, and cultural backgrounds is desirable, in that it is likely to further the development of the intellectual outlook and increase the effectiveness of international officials.

12. Within the secretariats the obligations of supervisors to staff under their direction and of such staff to their superior officers are of particular importance. Clearly those in the highest offices, followed by those at lower supervisory levels, must set the tone by personal example, and accept their responsibility for the guidance and training of their staff. It is important not only that supervisors be motivated by an attitude of impartiality, tolerance and understanding but that they act in such a way that this attitude is widely recognized as being their underlying motivation throughout.

13. It is essential for the development of a spirit of mutual understanding that supervisors strike a proper balance between the need for maintaining discipline and the need for understanding and fair treatment of their staff. An important element in this balance is the exercise of scrupulous care by supervisors in allowing the views of their junior officers to be heard, particularly when those views are opposed to their own, and in seeing that due recognition is given to the merits of an individual. This is especially important in international organizations, where there is need

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2 Aghnides, Th., "Standards of Conduct of the International Civil Servant", Revue internationale des sciences administratives, 1953, No. 1, Brussels: Les Editions de la Librairie encyclopédique, S.P.R.L., pages 182-183.

for persons of all nationalities to make their contributions and where there are inevitable differences in cultural backgrounds, in approach to work, and in methods of expressing opinions.

14. It is axiomatic that the conduct of supervisors must be free of intimidation or personal favouritism and that solicitation or acceptance by them of favours, gifts, or loans from their staff must not be practised or even suspected.

15. For his part, the subordinate official must recognize the importance of intellectual discipline and regulate his conduct accordingly. He must accept the obligation to put before his superiors all the relevant facts and considerations relating to a current question, without concealment. While he has the right, which should be safeguarded, to record his views in the official files, it is his duty to accept, carry out, and even defend decisions of his superiors once they are taken, whether or not they accord with his own opinions. Any public or repeated expressions of disagreement with such decisions can only weaken the organization.

16. While this general rule of disciplined conduct is an important one, where the staff member has serious doubt as to the compatibility of an instruction he has received with administrative regulations and rules, it is his duty to place his point of view clearly before his supervisor and, if it is not accepted, he should ask for written instructions. Once such instructions have been received, they must be carried out.[3]

17. Proper standards of conduct preclude the use by an international civil servant of his official position to influence or attempt to influence a colleague - for personal reasons - in his decision regarding the appointment of a person to an international secretariat. This in no way would prevent the giving of information or views, perhaps at the request of the responsible official, which would enable the latter to make an impartial decision of the case on its merits. Clearly, no unauthorized staff member should intervene in any way in the awarding of contracts to commercial firms.

III. Relations with governments and with representative bodies of the organization.

18. The independence of an international secretariat - essential for the fulfilment of its mission - is put to the most crucial test in the day-to-day relations of staf members with governments and their representatives and with representative bodies of the organization. For the staff member the basic guide is his oath of office, which pledges him not to seek or accept

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3 United Kingdom: Royal Commission on the Civil Service, 1929-1931, Minutes of Evidence, London: H.M.S.O., 1931, page 1268.

On the question of relations between subordinates and supervisors, the Board considers it relevant to quote here a statement by a United Kingdom Royal Commission regarding the relationship between the national civil servant and his political chief or minister:

"Determination of policy is the function of Ministers and once a policy is determined it is the unquestioned and unquestionable business of the Civil Servant to strive to carry out that policy with precisely the same energy and precisely the same good will whether he agrees with it or not. That is axiomatic and will never be in dispute. At the same time it is the traditional duty of Civil Servants, while decisions are being formulated, to make available to their political chiefs all the information and experience at their disposal, and to do this without fear or favour, irrespective of whether the advice thus tendered may accord or not with the Minister's initial view. The presentation to the Minister of relevant facts, the ascertainment and marshalling of which may often call into play the

instructions in regard to the performance of his duties from any government or other authority external to his organization. All staff members, on permanent or temporary appointment, or whether seconded from a national government are, during their period of service, international officials. They must clearly understand that they are not, in any sense, representatives of a national government or of a national policy. It is worth recalling that Member States and their representatives, for their part, through adherence to the United Nations Charter and the basic instruments of the specialized agencies, have committed themselves to understand and respect this independent status.

19. The principle of independence in no way conflicts with, or should obscure, the fact that it is the Member States, represented by governments, that together make up the international organization the staff member serves. Conduct which facilitates good relations with individual Member States, and which contributes to trust and confidence in the secretariat, strengthens the organization and promotes its interests. Courtesy and tact are obviously required.

20. It is also the duty of the staff member to avoid any action which would impair good relations with governments, or destroy confidence in the secretariat - such as public criticism of, or any kind of interference with, the policies or affairs of governments. For international civil servants, either individually or collectively, to engage in any active criticism of a government or in any activitiy which undermines or discredits its authority, is incompatible with their status. A fortiori, any direct or indirect activity with a view to the overthrow of a government by force, including incitement or advocacy of such overthrow, is one of the gravest forms of misconduct.

21. Reference is sometimes made to possible conflict between national and international loyalties. If such circumstances should arise the conduct of the international civil servant must clearly reflect his obligation to the international organization, and any appearance of disloyalty to that organization must be considered incompatible with his status.

22. Acceptance of this principle may be made easier by the understanding that, from the long-range point of view, legitimate national interests can only be served by the promotion of world peace and prosperity and the successful progress of the international organizations toward these objectives. The staff member who cannot accept this view has no alternative but to resign from the international service.

23. Just as international civil servants are not representatives of their countries, it should be understood that they have no general authority or justification for considering themselves as liaison agents between their governments and the international organization. The Executive Head may, however, request a staff member to serve in a liaison capacity, and when this is the case, the proper attitude and conduct is well expressed in the following quotation:

"A liaison agent must be in a position to report accurately on currents of opinion in his country, and to describe the attitude of his Government.

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whole organization of a Department, demands of the Civil Servant the greatest care. The presentation of inferences from the facts equally demands from him all the wisdom and all the detachment he can command.

The preservation of integrity, fearlessness, and independence of thought and utterance in their private communion with Ministers of the experienced officials selected to fill the top posts in the Service is an essential principle in enlightened government; as - whether or not Ministers accept the advice thus frankly placed at their disposal, and acceptance or rejection of such advice is exclusively a matter for their judgment - it enables them to be assured that their decisions are reached only after the relevant facts and the various considerations have, so far as the machinery of government can secure, been definitely brought before their minds."

Secondly, it is his duty to discuss concrete questions with the appropriate authorities of his Government at the request and on behalf of the head of the service, but not to discuss concrete questions with the latter at the request and on behalf of his Government. He should, of course, explain his Government's policies, but he should do so without attempting to further them. To make this distinction is not always easy. It is a test both of international loyalty and of objectivity towards national interests and viewpoints, the more so since Governments may not always refrain, as they ought to do, from taking advantage of the presence of one of their nationals in the service by pressing him to assist in the work of national delegations. Another duty of a liaison agent is to give to his compatriots the fullest explanation possible of the work of the international body, especially in connexion with decisions which may be unpopular in the country in question."[4]

24. In considering the proper relations of staff members to representative organs and committees of the organization, two fundamental principles should be kept in mind. First, members of the secretariat should remember that the international organization is made up of Member States and that the secretariat is a service organization and not a controlling or policy-making body. The function of the secretariat lies mainly in facilitating and assisting in the work of the representative organs and in carrying out their decisions. Secondly, the essential unity of an international secretariat, and the primary responsibility of the Executive Head for directing and controlling its work, must be thoroughly understood and accepted.

25. When staff members are submitting proposals on substantive matters, rather than technical matters, to legislative bodies, they are presenting the position of the Executive Head and not that of a department, a section, or an individual concerned. Such statements should be made in the name of the Executive Head and in conformity with his policies and recommendations. Acceptance of this view will serve to restrain the staff member from an over-zealous presentation which may lead to his identification personally with a particular policy. Equally, it will serve to ensure a fair and proper presentation of a position with which the staff member may happen personally to disagree. An official whose opinion is requested on an important subject on which the position of the Executive Head is not yet known has the clear responsibility of ascertaining that position before expressing a view. Should he be unable to do so, and if the situation in the legislative body is such that some expression of opinion by him is necessary, the official should make it clear that he is expressing a tentative view, and that he must refer the question to the Executive Head to secure the definitive position. It is to be hoped that governmental representatives and other members of legislative bodies and committees, for their part, will refrain from requesting the personal views of subordinate officials, particularly after the position of the Executive Head has been made known.

26. It is obviously an intolerable practice for a staff member to prepare for the use of a governmental or other official representative - whether upon request or not - speeches, arguments or proposals on political or other controversial questions which are under discussion in a representative organ. It is equally improper for an official to plead before a representative committee, or an advisory expert group, for appropriations beyond those requested by the Executive Head, for expansion of the activities of his particular department or service, or for any point of view at variance with that of the Executive Head.

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4 The Royal Institute of International Affairs, The International Secretariat of the Future, London: Oxford University Press, 1944, pages 34-35.

27. There are many ways in which the staff member can render proper services to representative bodies or their members, and in so doing, serve the interests of his organization. Providing factual information, assisting with technical matters such as the preparation of draft resolutions in formal style, or giving technical advice - all these are useful and proper ways of furthering the effective functioning of the organization. It should be a universal practice, however, for the staff member who is requested to give such information or render such assistance to inform his superior officer and thus remove or minimize the personal factor.

28. Adequate arrangements should and do exist within the international organizations for a staff member to secure fair treatment in respect of his personal administrative status. It is thus inexcusable for an official to lobby with governmental representatives or members of legislative bodies in order to secure support for improvements in his personal situation or that of another staff member, or for blocking or reversing unfavourable decisions regarding his status. The proper method for raising staff problems is through the normal channels provided in each organization. The Board trusts that governmental representatives or members of legislative bodies, in turn, will neither accede to any such requests, nor on their own initiative intervene in such administrative matters.

29. Of special importance is the conduct and role of elected staff representatives in connexion with the decisions of an international organization regarding conditions of service and general staff questions. The Board notes that arrangements are made in most of the participating organizations for full consultation by the Executive Head with representatives of the staff before he decides on the proposals he will make to the legislative bodies regarding such matters. These arrangements, if they are to work successfully, will depend in large measure upon the cultivation by the staff associations of a responsible understanding amongst their members of the obligations which the right of consultation carries with it, particularly in respect of the upholding of any agreements which may have been reached.

30. Where, as may happen despite such consultations, the staff representatives maintain a point of view which is not accepted by the Executive Head, the Board would regard it as desirable that there should be a recognized procedure by which the views of such representatives on staff matters can be made available to the appropriate organ of the international organization concerned. The precise arrangements would depend upon the internal structure of the organization and might develop in varying ways, of which the practice whereby the Executive Head annexes to his reports written statements by the staff representatives would be the most usual. Participation by staff representatives in the actual debates of legislative bodies, for the purpose of upholding their views in opposition to those of the Executive Head, is clearly inadmissible. Similarly, private efforts of staff representatives to influence delegations to support the views of the staff representatives cannot be tolerated.

31. A special problem in relations with governments undoubtedly arises from the secondment of national officials to the international service. The Board has already pointed out that while in such service they must understand that they are international officials and must govern their conduct accordingly. In practice this will not be easy of attainment unless their national service has assured them that they are expected to act as international officials, and has taken appropriate steps - for example, protection of promotion, pension, or seniority rights - to make such assurance effective.

32. Finally, as regards relations with governments, it should be understood that appointment to the international civil service in no way relieves the individual concerned of the obligations of his own citizenship in matters unrelated to the work or interests of the international organization he serves. His legal and civil obligations - in such matters as assisting in the due processes of law, respecting court judgments, and

honouring a legal summons to appear - do not cease merely by virtue of his international status. A decision of the Executive Head that compliance with a particular governmental request or order is not compatible with the organization's interest will, of course, be determining for the staff member, but a proper standard of conduct must, in the absence of such decision, include the respecting of private civic obligations. When in doubt regarding the compatibility of any particular legal or civic obligation with his international status, the staff member concerned should seek prior guidance from the Executive Head.

IV. Political activities

33. In view of the independence and impartiality required by their status, it is an essential principle that international civil servants, while retaining their right to vote, should refrain from political activities. It is participation in political partisanship, or the public manifestation of views on questions of public controversy, and not the holding of beliefs and opinions, that will destroy or diminish the contribution of international officials to the work of the international organizations; in fact, it is not only permissible but desirable that staff members should take a lively interest in the important public questions of the day.

34. Without attempting an exhaustive list of activities which the international civil servant must forego in order to comply with the above general principle, the Board believes some illustrative examples may be usefully given. Since public manifestation of support for a political party cannot be permitted, this would rule out candidature for public office of a political character and a fortiori the holding of such office; this applies to elective offices where party affiliations or political issues are involved, whether on a national or a local scale. Similarly, public support of a political party by speeches, statements to the Press, or written articles, is inadmissible. Further, the holding of political party office, membership on any political campaign committee, acceptance or solicitation of any financial contributions for political purposes, initiation or signature of petitions involving political candidates or political issues - all these are examples of what must be regarded as improper conduct for an international official.

35. Membership of a political party has a different significance in different countries and it is not possible to lay down a rule which will give complete guidance on the subject. What can be said is that for a staff member to belong to a political party which is illegal in the country of which he is a citizen is inadmissible. Similarly, membership in any group, whether political or not, which imposes on the staff member an obligation to action incompatible with his oath of office and responsibilities as an international civil servant must be ruled out.

36. Within the broad field of political and public affairs, it is not sufficient to abstain from activities in the cause of a particular party. Public participation in any matters of national or international controversy must be ruled out by the staff member's code of conduct. Even membership in groups supporting resolutions or particular decisions of the international organization, when that support involves pressure on particular governments for action, may be inadvisable, since it may involve identification of the staff member with such pressure.

37. Having stated its views as to the broad principle governing political activities of staff members and having presented a number of concrete instances which illustrate this principle, the Board nevertheless recognizes that the detailed application to particular circumstances must rest within the discretion of the Executive Head. A staff member who has any doubt as to the propriety of an outside activity which might be considered political in nature should seek a decision in advance from his Executive Head.

V. Relations with the public

38. The success of international organizations will depend in large measure on the steady increase of public understanding and support of their objectives and of their activities in pursuit of those objectives. This places on the secretariat official an important and continuing responsibility. He represents to public gathering and to private individuals with whom he comes in contact a symbol of the organization he serves. He must endeavour in a positive and constructive way to contribute to increased public understanding and support.

39. Once this principle is understood and accepted, the individual staff member will be the best judge of how to increase his contribution. Tact, restraint, and tolerance become obvious standards. What may be less understood is the importance of acquiring sufficient knowledge about the achievements and activities of the United Nations family of organizations to enable him to promote understanding, to provide accurate information, and effectively to answer criticism. Some staff members will have greater opportunity and greater talent than others; all should play their part.

40. Wherever they serve, but particularly on field or mission assignments (see paragraphs 44 to 49), international civil servants must understand and respect the culture, customs and habits of the country of their duty station. They must avoid giving cause for resentment and abstain from conduct which will reflect adversely on their organization. Ostentation in their way of life and entertainment, especially where their standards of pay are higher than those prevailing in the country of duty, and the appearance of an inflated sense of personal importance, will certainly be harmful. Obviously, public airing of personal grievances or destructive criticism of their organization are incompatible with their oath of office.

41. Staff members may from time to time be subjected to public criticism based on shifting fashions of moral and political judgments. They should have a right to expect that they will be defended by their organization against unjustified criticism growing out of ill-founded public reactions foreign to the purposes and standards of the international organization they serve.

42. Many international civil servants necessarily come into contact with representatives of the Press. They may have the duty to get into touch with them or they may be approached by them. The first principle to follow in this connexion is that no staff member should make statements to the Press, except as authorized. It is for the Executive Head to lay down, by administrative instruction, the method by which the very important task of conveying information to the Press is to be undertaken. As a general rule, there are Press services through which such information is channelled. The Board's concern is to make clear that when any responsibility for communicating with the Press is placed on a staff member, or where as a responsible officer he is approached by a member of the Press, he must regard himself as speaking in the name of his organization and avoid personal references and views. It would obviously be improper for a staff member to attempt to use the Press to further his own interests, to air his own grievances, to reveal unauthorized information, or to attempt to influence policy decisions with which the organization is faced.

43. The Board supports strongly the principle set out in the staff regulations and rules of the international organizations, that staff members should not accept any honours, decorations, gifts, or marks of favour from any government or from any other source external to the organization. It hopes that member governments will respect this principle and refrain from placing staff members in the embarrassment of refusing such offers. Such favours might be regarded by the donor as a means of enlisting support or entailing an obligation to render some service in return. Equally important, acceptance of favours might be regarded by the public as entailing such an obligation even though this may play no

part in the intention of the donor. Officials handling business with commercial firms must apply the same rules and must be particularly circumspect as regards gifts and offers of hospitality. If the staff regulations or staff rules do not give clear guidance in an individual case, the staff member should seek a ruling from the Executive Head.

VI. Conduct of staff members serving away from Headquarters

44. The special opportunity, as well as the special obligation of staff members serving away from Headquarters, including temporary experts sent to advise governments, warrants particular emphasis. The opportunity arises from the fact that their personal contribution takes on increased significance in areas where the major organs and major activities of their organization are not in evidence. Such staff members, even if sent on technical missions, are in fact frequently considered as "representatives" of the United Nations or of the specialized agency concerned and the most scrupulous attitude and unexceptionable conduct are thus needed from them. Particularly in some of the areas of the world where political changes have been rapid in recent years, there is a great sensitivity on the part of the governments and peoples to the behaviour of visiting staff members and experts.

45. A prime obligation of an international civil servant going to serve in a particular area of the world is to obtain in advance the best possible knowledge of the countries to which he is going and of the habits, customs and attitudes of their peoples. This will be relatively easy for a staff member sent from an established office. It is no less important, even if more difficult, for the expert recruited for a specific assignment. Such knowledge can help an individual to regulate his conduct so as to reflect discretion, understanding and tolerance.

46. Matters of protocol may well have an important bearing upon the success of a field mission. This fact should be borne in mind although diplomatic forms and usages, as well as particular circumstances, will vary so widely that valid general rules are difficult to prescribe. International missions, even of a technical nature, are accredited to governments; recognition of this fact will assist officials in regulating their conduct. Unless there are exceptional reasons for not doing so, it would seem wise for missions on arrival in a country to get in touch with the national protocol department in order to avoid what might be considered as diplomatic and social errors. The Board assumes that the heads of the regional offices of any international organization and resident technical assistance representatives, will make themselves familiar with matters of protocol and local usages and will be of assistance to periodic missions in these matters.

47. When staff members or experts of several international organizations are serving in the same country or region, an excellent opportunity is afforded for demonstrating a co-operative and understanding attitude regarding the international family as a whole, as mentioned in paragraph 6 above. Any evidence of rivalry, or public criticism, or unco-operativeness in such circumstances can only undermine the reputation of the international organizations and must, therefore, be strictly avoided.

48. Caution should be exercised by staff members and visiting experts who are invited by various groups to attend meetings, give lectures under their auspices, grant interviews, or make public statements. They should avoid causing harm to the mission or international organization by any association with, or expression of views regarding, matters of national or international controversy. Equally, persons serving in the field must avoid interfering in any way whatsoever with the internal affairs of their duty country; they should especially see to it that they do not become involved in any differences of views, or conflicts, as between central and

local governments, or appear identified with the cause of officials or nationals of the country with whom they work.

49. While it is common for international organizations, through agreements with particular governments, to arrange for certain privileges or benefits for international civil servants, it must be recognized that such agreements are matters for negotiation between the headquarters office and the government concerned, and not matters for unauthorized negotiation by the field official. Still more, officials serving in the field must avoid any requests for privileges which are not provided for in agreements between the organization and government concerned.

VII. Outside activities

50. The Board considers it desirable to state at the outset the basic consideration which, in its view, should determine the appropriateness of outside activities, aside from political activities, on the part of international civil servants. It is that the primary obligation of an international civil servant is to devote his energies and capacity fully to the work of the organization he serves. It follows that no activity can be permissible which in any way interferes with the work or is incompatible with the status of an international civil servant. Unless strict standards of compatibility and propriety are applied in this matter the reputation of the international secretariats may be jeopardized. There can be no participation in activities which cause an excessive drain on the staff member's time and energy, or which, by their nature, would reflect on the dignity or standing of the international civil service. Similarly, it is clear that no outside contractual obligation may be entered into which would interfere with the staff member's availability, at any time, for his official work. Generally speaking, the Board believes that any continuing or recurring outside activity of a substantial nature cannot be reconciled with the governing principles stated in this paragraph.

51. As regards the question of remuneration for any outside activity unrelated to the official work of the staff member, the Board's view is that this will in the main be properly regulated if the principles outlined above are adhered to. The conditions of employment of international organizations are designed to make it possible for the staff member to devote himself to his career, and outside activities the principal aim of which is to procure financial gain would be inadmissible.

52. Once the principles are stated and understood, the Board recognizes that in certain circumstances exceptional authorization of an outside activity may be given by the Executive Head. Such authorization should always be received in advance.

VIII. The private life of the staff member

53. In principle, the private life of the international staff member is his concern and should not be intruded upon by his organization. At the same time, in order that his private life will not bring his organization into disfavour, he must set himself a high standard of personal conduct - one that is more complex in some respects that that demanded of national civil servants. He must bear in mind that his conduct, whether connected or unconnected with official duties, must be such that it will not infringe upon any demonstrable interests of the organization he serves, bring it into discredit, or offend the community in which he lives. Such restraint must be exercised even in the use of rights recognized by the existing legislation, if this use is likely to reflect unfavourably on the organization. Not only must the international civil servant be careful and discreet himself, but he should impress upon members of his household the necessity of maintaining a similar high standard of conduct.

54. Scrupulous compliance with laws of the host country, avoidance of illicit or speculative dealings in currencies, honouring of financial obligations - these are only a few of the obvious requirements which derive from the general principle.

55. Violations of law can range from serious criminal activities to trivial offences, and standards for judgment can best be developed in the light of the nature and circumstances of individual cases. The Board believes the proper approach is that formulated by the Secretary-General of the United Nations in his report to the General Assembly, as follows:

> "The standard of conduct applicable to staff members is more exacting than ordinary legal standards. A conviction by a national court will usually be persuasive evidence of the commission of the act for which the defendant was prosecuted. And acts which are generally recognized as offences by national criminal laws normally will be violations also of the independent standard of integrity developed by, and proper to, the United Nations. However, the Organization must remain free to take no account of convictions of staff members for trivial offences or for offences which are generally held not to reflect on integrity, or of convictions made without observance of the generally recognized requirements of due process of law."[5]

IX. Conclusion

56. The standards in this report are high and exacting, but it is the Board's view that international civil servants would be among the first to agree that they are capable of attainment and should be achieved. The international civil servant must accept special restraints in his public and private life and it is in so doing that he can make his positive contribution to the work and ideals of the international organizations.

57. Integrity, international loyalty, independence and impartiality, and the subordination of private interests to the interests of the organization, are daily requirements. The Board looks forward confidently to the development of a proud tradition which will make clear to all who come into contact with the international organizations that their staff members accept the high responsibility which their status demands. It will be amply rewarded if its endeavours will have contributed in some measure to the attainment of this end.

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5 Official Records of the General Assembly, Eighth Session, Annexes, Agenda item 51, document A/2533, paragraph 72.